



Michigan Department of Agriculture and Rural Development (MDARD)

Commercial Solar Facilities on PA 116 Land FAQ

Revised March 4, 2021

- 1. Question:** Why does the drainage need to be maintained on the property where the solar panels are located?

Answer: It is important to maintain the drainage so the land may be restored to agricultural use. Also, if the drainage is not maintained, the land may revert into a wetland area which may come under State of Michigan regulation. If the land becomes a wetland regulated by the State of Michigan, the land may not be used for farming.

- 2. Question:** While the solar panels are in place will my land remain designated as Qualified Agricultural Land? This designation provides an exemption for up to 18 mills of school operation millage and makes the land eligible for a Qualified Agricultural Land Affidavit which would keep the taxable value of the property capped in the event of a sale of the land to another landowner.

Answer: It is not clear whether the land would lose the Qualified Agricultural Land designation once the solar panels are installed. It is important to check with your local assessor to determine how the land will be classified for purposes of taxation.

- 3. Question:** As a landowner I am signing an Amended Agreement with the State of Michigan which commits me to be responsible for the removal of the solar panels, restoration of the site to agricultural use, maintaining the drainage, planting a cover crop beneath the solar panels, and to provide financial assurance that these commitments will be accomplished. Why am I required to do this when the Solar Energy Developer is installing the solar panels?

Answer: As the landowner and Amended Agreement holder you are required to assure these requirements are met. As part of your negotiations with the Solar Energy Developer, you may wish to designate all or some of these commitments to the Solar Energy Developer as part of your lease or contract. MDARD will assure that these commitments are fulfilled through periodic review and inspection.

- 4. Question:** Will my land continue to be enrolled under the Farmland and Open Space Preservation Program (PA 116) while I am under contract/lease with the Solar Energy Developer?

Answer: Yes. Your land will continue to be enrolled in the PA 116 Program; however, you may not claim tax credits while the solar panels are located on your property.

8. Question: Can salvage or resale values be used in the decommissioning cost estimate for the surety bond or irrevocable letter of credit?

Answer: The surety bond or irrevocable letter of credit must be for the amount that a licensed engineer determines is sufficient to cover any and all costs associated with the removal and disposal of all commercial solar facility structures and any and all costs associated with restoring the land under the solar lease to agricultural production. Estimated salvage and/or resale values may not be included in the estimated decommissioning cost due to the unpredictability of future salvage values. MDARD does not have the funds on hand to pay for the decommissioning even if those funds may potentially be recouped by salvaging materials from the solar facility. All of the funds for decommissioning must come from the owner of the solar facility or from the decommissioning bond.

9. Question: What if the farmland was previously enrolled in PA 116 and currently has a lien on the property as a result?

Answer: Before the construction of a solar facility can commence, the PA 116 Lien will need to be paid in full. When a PA 116 Agreement expires there is a calculation of the last seven years of tax credits received which are to be paid to the State of Michigan by the landowner. If this amount is not repaid within 30 days of the notification to the landowner, then MDARD is obligated to place a lien on the property for that amount. This lien becomes due and payable at the time any part of the property is sold or is converted to a use prohibited by the former PA 116 Agreement, which includes a solar facility.

10. Question: What if the landowner wants to enroll land that has solar facility?

Answer: MDARD will not enroll property that has a commercial solar facility on it in PA 116. The landowner may apply to enroll the property in PA 116 after the solar facility has been removed and the land restored to agricultural use.

11. Question: Can grading be done and/or topsoil be removed as part of the construction of the solar facility?

Answer: Any grading or moving of soil will need to be specifically approved by the local governing body and MDARD. The PA 116 Agreement states that land improvements shall not be made except for use consistent with farm operations or with the approval of the local governing body and MDARD. The PA 116 Agreement also states that, with exception of natural gas and oil, the extraction of surface and sub-surface minerals is prohibited unless specifically approved by the local governing body and MDARD.