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Dear Massachusetts RPS Solar Carve-Out Stakeholders:

Today, June 28, 2013, the Department of Energy Resources (DOER) filed an Emergency Regulation to establish rules by which the current RPS Solar Carve-Out program will be completed. As an Emergency Regulation, the rules become effective upon filing and thereby are now in effect. In this announcement, DOER provides 1) an outline of the key provisions of the emergency regulation, 2) the required regulatory process that DOER plans to follow to promulgate these regulations beyond its 90-day effective period, and 3) the procedures DOER will now implement to establish and inform applicants and the public about the projects that are eligible for qualification. DOER has posted the Emergency Regulation as filed with the Secretary of State on its [website](#).

DOER recognizes it must balance accommodations for potential losses to developers with the impact on ratepayers. As such, these emergency regulations expand the 400 MW cap to accommodate those projects which are demonstrably well along in the development cycle and to allow for small projects to continue to proceed.

Summary of Emergency Regulation

DOER now has available on its [website](#), the lists of projects that (1) have been determined to be qualified or submitted an administratively complete application under the original 400 MW capacity limit, and (2) those projects that have applied outside of the 400 MW capacity limit. In relation to these lists, the following rules will be applied; though this summary should not be read as a substitute for the prevailing regulatory language. Note, that if any projects under the 400 MW capacity limit have their applications withdrawn or revoked, project capacity from outside the 400 MW capacity limit will not be transferred to within the 400 MW capacity limit, and will remain subject to meeting the criteria outlined below and in more detail in the emergency regulation.

- Units under the 400 MW capacity limit, as determined by DOER with a Statement of Qualification or an application deemed administratively complete by DOER that are greater than 100 kW, must meet the following construction timelines to maintain qualification in the current solar program.
- Units that are outside the 400 MW capacity limit, as determined by DOER, and are greater than 100 kW must have an Interconnection Service Agreement fully executed by the customer and utility dated on or before June 7, 2013. They must meet the construction timelines below to be awarded a statement of Qualification under the current program.
- Construction Timelines for Projects > 100 kW
 - Receipt of Authorization to Interconnect from its local distribution company by December 31, 2013.

- Units that do not receive an Authorization to Interconnect by December 31, 2013 may receive an extension to June 30, 2014 only if it can be demonstrated, to the satisfaction of DOER, that the Unit has expended at least 50% of its total construction costs by December 31, 2013.
 - If a Unit is not in receipt of the Authorization to Interconnect as of June 30, 2014 but can demonstrate, to the satisfaction of DOER, that the missing Authorization is due to delays of the local distribution company or due to remaining steps required by other parties for safe and reliable interconnection, the Statement of Qualification will be extended until the Authorization is received or denied.
- Units equal to or less than 100 kW, or designated as a Community Solar Project by MassCEC, regardless of their placement in the 400 MW capacity limit, will be qualified under the current program provided they submit a Statement of Qualification Application to DOER and have an Authorization to Interconnect by December 31, 2013 or prior to the effective date of the new solar program, whichever is later.
 - Units failing to meet construction timelines will have their Statements of Qualification revoked.
 - The effective date of all Statement of Qualifications issued by DOER under the current program will be no later than December 31, 2013. This provision will assure that the compliance obligation of the current solar program will not be extended an additional year, at additional ratepayer cost.
 - The compliance obligation formula of the program as of the effective date of the regulation and after the program reaches its program cap will be revised from 400 MW to the new Program Capacity Cap announced by DOER in July 2014, to accommodate actual supply. DOER will provide exemption to the additional compliance obligation, once the obligation reaches the new cap, for load under contract prior to the effective date of the emergency regulation.

Continuing Regulatory Procedure

While DOER is confident in the Emergency Regulation as written, in accordance with administrative procedure laws (M.G.L. ch. 30A), the regulation will remain in effect for 90 days, with the opportunity for the Department to make the regulations permanent. DOER will soon schedule and announce a Public Hearing and comment period, in accordance with administrative procedures, and move to quickly promulgate the final regulation so as to keep the regulations in effect throughout the construction timelines and until the new Solar Carve-Out Program is commenced. Given the importance of business decisions being made expeditiously based on the rules of the Emergency Regulations, DOER recognizes the prudence of completing the regulatory process quickly and without deviation.

DOER Procedures for Project Qualification

DOER has posted on its [website](#) two MS Excel spreadsheet lists, one listing all projects that have been deemed qualified and are within the 400 MW capacity limit (List of Qualified Solar Carve-Out Generation Units), and one listing all projects that have submitted applications that are outside the 400 MW capacity limit (Pending SQAs).

The List of Qualified Solar Carve-Out Generation Units indicates which projects have already have been awarded Statements of Qualification (along with their RPS Effective Dates), and those projects which are deemed administratively complete (and can expect to soon receive their Statements of Qualification). All projects that are on this list that are not yet interconnected are now subject to the construction timelines outlined above.

All projects larger than 100 kW that are listed on the Pending SQAs list are outside the 400 MW capacity limit and must provide to DOER a copy of their fully executed Interconnection Service Agreement (signed by the utility on or prior to June 7, 2013), or an Authorization to Interconnect. The list of projects indicates whether or not a project has already provided satisfactory documentation. If a project has provided a copy of its Authorization to Interconnect or Interconnection Service Agreement, it will be indicated by a "Yes" in column D or E, respectively. **These projects do not need to provide any additional information to DOER at this time.**

If a project has not yet provided a copy of either of these documents, it will be indicated by a "No" in columns D and E. Those projects that have not provided such documentation will have one week after the effective date of the Emergency Regulation, that is by no later than July 5, 2013, to provide such documentation to DOER, or their applications will be rejected and the projects will be removed from the list upon subsequent postings. All missing documentation should be provided to DOER by email at DOER.SREC@state.ma.us.

All projects equal to or less than 100 kW that are listed on the Pending SQAs list can also determine whether or not DOER has received copies of their Authorization to Interconnect in column D. If a project has provided a copy of its Authorization, it does not need to provide any additional information to DOER at this time. If it has not, it should be provided as soon as possible via email and should be submitted to DOER.SREC@state.ma.us. DOER will not reject applications without an Authorization to Interconnect, but it will also not qualify or ask MassCEC to register a project until the Authorization to Interconnect has been provided by the applicant. Upon the effective date of the next phase of the Solar Carve-Out program (SREC II), all pending applications for projects equal to or less than 100 kW that have not yet provided a copy of their Authorization to Interconnect will be rejected.

By July 15, 2013, DOER will post a final version of both lists, providing a final tally of those projects that are either already qualified or will be awarded qualification if the prescribed construction timelines are met.

DOER appreciates the concerns and efforts of stakeholders to smoothly and effectively complete the current Solar Carve-Out program. Project developers will now need to weigh the risk of successfully completing a project construction schedule with missing the deadlines and having projects unable to qualify for the current program. While DOER recognizes the difficulty inherent in these business decisions, we also must prudently limit the oversubscribed 400 MW program to projects that best represent the first 400 MW of capacity that can be operational.

We look forward to continuing to work together on making the program completion a success, as we also work to expand the solar market through the next program design.

Regards,
Dwayne Breger

Dwayne Breger, Ph.D.
Director, Renewable and Alternative Energy Development

[Massachusetts Department of Energy Resources](#)

Ph: 617.626.7327 Fax: 617.727.0030

dwayne.breger@state.ma.us

<http://www.mass.gov/doer/>

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100 Cambridge St. Suite 1020 | Boston, MA 02114 US

