

Are you a farm owner considering a commercial solar lease?

If so, here are some questions to consider first.

1) Is the farm in an Agricultural Security Area (ASA)?

- a. There are no restrictions or limitations related to commercial solar development on a property that is simply enrolled in the ASA. However, the property will potentially be removed from the ASA when the township does a seven-year review if it no longer meets the evaluation criteria for inclusion in the ASA. There is no penalty for changing use or removing property. The landowner can also submit in writing that they no longer wish to be enrolled and be removed at any time.

2) Is the farm in an Agricultural Security Area and preserved through a permanent Agricultural Conservation Easement?

- a. ASA is a prerequisite for the state farmland preservation program. Unlike the ASA designation alone, if the farm is also subject to a permanent agricultural conservation easement, the landowner may not engage in commercial solar development. The deed of easement is in perpetuity and may not be extinguished.
- b. Energy primarily for use on the farm is permitted under the county farmland preservation program's rural enterprise criteria.

3) Is the farm enrolled in the Clean and Green preferential assessment program?

- a. If the farm is enrolled in Clean and Green, the landowner may not engage in commercial solar development without triggering rollback taxes on the entire enrolled acreage. However, unlike the Farmland Preservation Program, the landowner may break the covenant and pay rollback taxes and be removed. Any remaining eligible acreage after a rollback tax penalty is triggered is automatically re-enrolled unless the landowner wishes to be removed.
- b. Like farmland preservation, energy primarily for use on the farm is permitted under the definitions of eligibility.

4) Is zoning a consideration?

- a. Zoning is done locally by townships under the authority of the Municipalities Planning Code (MPC). It is possible a zoning ordinance will not identify commercial solar as a specific use. In that case, zoning will need to determine if solar may be permitted as another use expressly permitted. Farm owners should check with townships to make sure land is zoned appropriately prior to executing a lease agreement.

5) Is solar considered “agriculture” by definition in Pennsylvania’s laws?

- a. Although commercial scale solar is often called a “solar farm”, it does not meet the definition of normal farming activity under the Right to Farm Act. Therefore, it will not receive protection from local ordinances and lawsuits, otherwise given to agricultural operations.

6) Must I obtain a permit from Department of Environmental Protection?

- a. A construction stormwater permit may be required if the panels disturb greater than one acre, per National Pollution Discharge Elimination System (NPDES). Farm owners should consult with county conservation district or DEP for additional information.

7) Is the farm enrolled in federal Conservation Reserve Program (CRP) or Conservation Reserve Enhancement Program (CREP)?

- a. Solar panels are not permitted on lands subject to CRP and CREP contracts. Specific questions may be directed to the local USDA Farm Service Agency.

8) Will the solar panels affect my conservation and best management practices that are part of a conservation plan?

- a. Farm owners should notify county conservation districts or local USDA-Natural Resources Conservation Service (NRCS) office to update conservation plans as needed. If cost share was received (EQIP, for example), farm owners should first obtain approvals prior to signing a lease agreement.