

AGRICULTURAL PRESERVATION RESTRICTION (APR)

APR PROGRAM RESOURCES

APR Program Resources is a companion document for the **APR Program Guide**. Resources include a list of APR staff who are happy to help you, and technical assistance and grant programs that may support your farming operations. Additional guidance is also provided for the APR application, stewardship, and transfer of ownership processes. The content is subject to change. *Please visit www.mass.gov/APR for updates.*

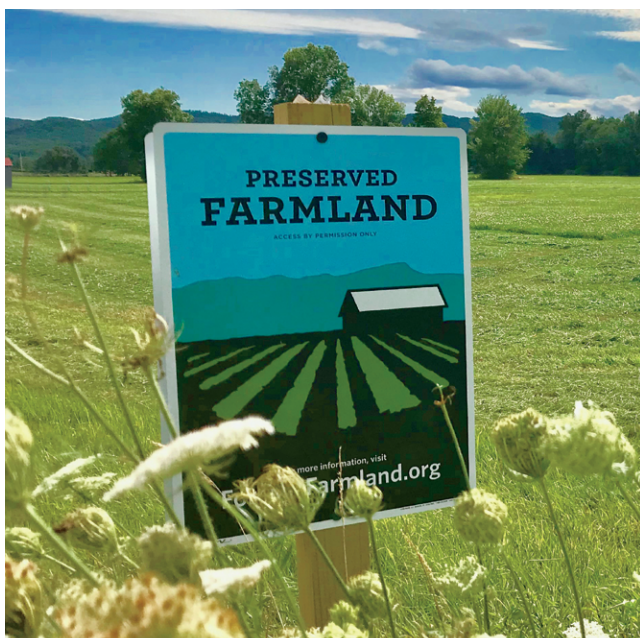


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APR PROGRAM STAFF

Our APR staff are available to assist you with all aspects of the APR Program.
Please find the appropriate person on this list to assist you.

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AGRICULTURAL PRESERVATION RESTRICTION (APR)

TRAINING, GRANTS & FUNDING

Training

MDAR offers training for beginning and experienced farmers in Massachusetts. Two current courses include:

- **Exploring the Small Farm Dream** – a course for those thinking about or in the planning stages of starting their own farm to generate income
- **Growing Your Farm Business** – a planning course to help established farmers develop a business plan and financial projections for their farm business

More information is available at www.mass.gov/service-details/agricultural-business-training-program-abtp.

Technical Assistance

Technical assistance is available to all farms including APR farms. Contact the appropriate staff listed for assistance.

Funding

All MDAR grants and funding programs require an application and are subject to available funding. The asterisk (*) notes two grants that are only available for APR farms. All other funding programs are available to APR and non-APR farms except the Farm Viability Enhancement Program**. Find complete descriptions and updates at www.mass.gov/apr at "Agricultural Grants and Financial Assistance".

APR IMPROVEMENT PROGRAM (AIP)*

Business planning assistance and grants for infrastructure improvements to help sustain active commercial farming on land already protected by the APR Program

Michael.Parker@mass.gov
413.726.2008

AG-ENERGY GRANT

Projects for renewable energy or energy efficiency

Gerald.Palano@mass.gov
617.626.1706

AGRICULTURAL CLIMATE RESILIENCE & EFFICIENCIES (ACRE)

Climate/economic resilience, and MA Food Plan projects

Laura.Maul@mass.gov
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AGRICULTURAL COMPOSTING IMPROVEMENT PROGRAM

Assistance with agricultural composting management

Sean.Bowen@mass.gov
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AGRICULTURAL ENVIRONMENTAL ENHANCEMENT (AEEP)

Conservation practices that prevent direct impacts on water quality, and ensure efficient use of water

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AGRICULTURAL FOOD SAFETY IMPROVEMENT PROGRAM (AFSIP)

Supports agricultural operation efforts to reduce food safety risks

Laura.Maul@mass.gov
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DAIRY FARMER TAX CREDIT

Offers state tax credit to help offset cyclical downturns in milk prices

Myron.Inglis@mass.gov
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FARM ENERGY DISCOUNT PROGRAM

10% discounts on electricity and natural gas bills for agriculture-eligible entities

Joao.Tavares@mass.gov
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TRAINING, GRANTS & FUNDING

FARM VIABILITY ENHANCEMENT PROGRAM (FVEP)**

For non-APR farmer technical and business planning assistance to expand, upgrade and modernize existing operations

Melissa.L.Adams@mass.gov
413.726.2001

FOOD TRUST PROGRAM

Increases local/healthy food access for the nutritionally underserved

Rose.Arruda@mass.gov
617.626.1849

FOOD VENTURES

Initiatives for low/moderate income areas, Gateway Cities, and rural areas

Rose.Arruda@mass.gov
617.626.1849

MATCHING ENTERPRISE GRANTS FOR AGRICULTURE (MEGA)

Business planning assistance and matching grants for farm improvements for beginning farmers between 1 and 5 years in business

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617-823-0871

ORGANIC COST SHARE

Reimburses certified organic farmers and food processors up to 75% of organic certification costs

Keri.Cornman@mass.gov
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STATE-OWNED FARMLAND LICENSING

Land can be licensed for 5-year periods to farmers for farming

Barbara.Hopson@mass.gov
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STEWARDSHIP ASSISTANCE AND RESTORATION ON APRS PROGRAM (SARA)*

Protects resources on APR properties

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617.626.1348

Farm Viability Enhancement Program (FVEP)**

This program provides business planning and technical assistance to help established farms identify strategies to increase farm viability such as: new or expanded enterprises, increased productivity, marketing, and or environmental sustainability. Participants selected to participate in the program may be offered grant funds in return for signing an agricultural covenant on the farm property to keep it in agricultural use for a 5- or 10-year term. Eligible uses of funds are: capital projects on the farm such as constructing barns, farm stands or agricultural buildings, modernizing equipment, or improving food processing capacity.

The FVEP can be a stepping stone to the APR program. It includes a temporary restriction that requires farming on the land. The FVEP is also useful for farms that do not meet APR criteria - due to soil type, farm size and other requirements - but would benefit from improvements.



AGRICULTURAL PRESERVATION RESTRICTION (APR) — PROTECTING FARMLANDS SINCE 1980 —

APR APPLICATION PROCESS

Applications Accepted Year Round!

GOAL	Protect Farmland
ELIGIBILITY	<ul style="list-style-type: none">▪ Be at least five (5) acres in size▪ Be actively devoted to commercial agriculture for two immediately preceding tax years▪ Produce at least \$500 in gross sales per year for the first 5 and \$5 for each additional acre▪ Have suitable, productive land for agricultural use based on soil classification, physical land features, and location near other farms
CONTACT	<p><i>Get in touch with APR staff for information and an application.</i></p> <p>Eastern Massachusetts/ Hampshire Ron Hall 413.726.2002 Ronald.Hall@mass.gov Hampden/Berkshire Barbara Hopson 413.726.2003 Barbara.Hopson@mass.gov Franklin/Worcester Michele Padula 617.626.1758 Michele.Padula@mass.gov</p>
TIMELINE	<p><i>Contact APR staff early to get started - as soon as you start considering applying for an APR</i></p> <p>YEARS 1-2 ▪ Application due ▪ Application evaluated and if approved offer made to landowner ▪ Project review and funding process ▪ Due diligence (title, survey) before project is completed</p> <p>YEAR 3 ▪ Closing</p> <p>FUTURE ▪ Stewardship assistance and monitoring to ensure compliance with terms of the APR</p>



APR PROCESS OVERVIEW

Sample Timeline
for an application
submitted in June

YEAR 1

- Pre-application planning

June

- Submit application

July

- Farm visit

July-August

- Application review

September

- ALPC meeting for vote of interest

September-November

- Start appraisal & title process

December

- MDAR offer made to landowner

January

- Offer accepted

February

- MDAR Application to NRCS

YEAR 2

March-August

- NRCS results
- P&S agreement

September-October

(Maybe in Spring)

- Results of municipal funding if applicable

October

- ALPC meeting for final vote

October-June

- Survey work: assignment, review, approval

YEAR 3

August to Closing

- Receive APR documents, schedule & review baseline document, hear of NRCS approval, get appraisal update, sign & record documents, receive check

If you would like to protect your farmland, read the **APR Program Guide** to learn about APR eligibility, the application process, the financials, and the APR program requirements. APR staff and land trust staff are happy to assist you. Applications are accepted year round. The APR process may take two or three years, so contact them when you first consider farmland protection.

Checklist

Here's what you will need to do:

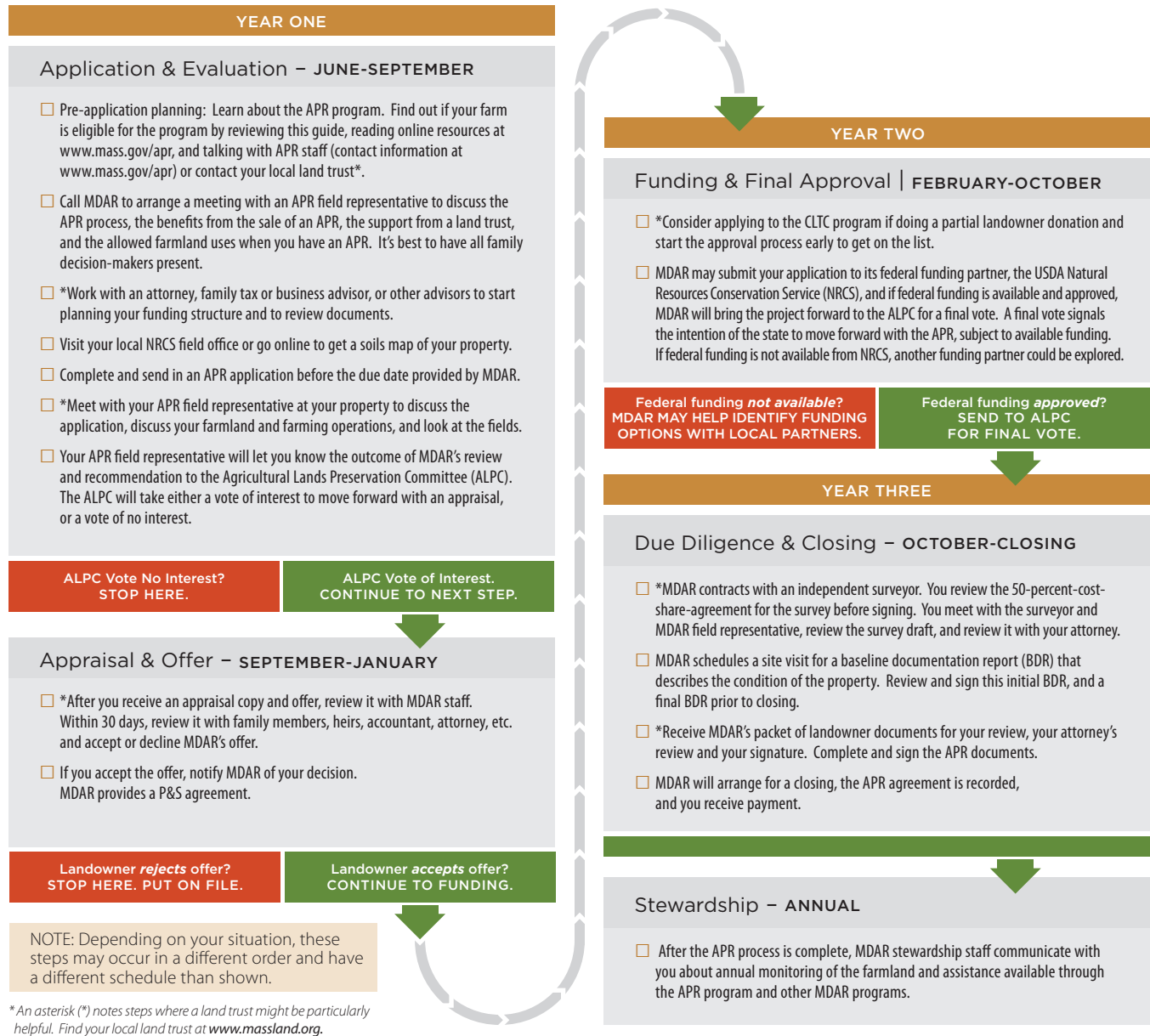
- ☐ Learn about the APR program. Find out if your farm is eligible for the program by reviewing this guide, reading online resources at www.mass.gov/apr, and talking with APR staff (contact information at www.mass.gov/apr) or contact your local land trust*.
- ☐ Call MDAR to arrange a meeting with an APR field representative to discuss the APR process, the benefits from the sale of an APR, the support from a land trust, and the allowed farmland uses when you have an APR. It's best to have all family decision-makers present.
- ☐ *Work with an attorney, family tax or business advisor, or other advisors to start planning your funding structure and to review documents.
- ☐ Visit your local NRCS field office or go online to the Web Soil Survey to get a soils map of your property.
- ☐ *Complete and send in an APR application before the due date provided by MDAR.
- ☐ *Meet with your APR field representative at your property to discuss the application, discuss your farmland and farming operations, and look at the fields.
- ☐ Your APR field representative will let you know the outcome of MDAR's review and recommendation to the Agricultural Lands Preservation Committee (ALPC). The ALPC will take either a vote of interest to move forward with an appraisal, or a vote of no interest.
- ☐ *After you receive an appraisal copy and offer, review it with MDAR staff. Within 30 days, review it with family members, heirs, accountant, attorney, etc. and accept or decline MDAR's offer.
- ☐ If you accept the offer, notify MDAR of your decision. MDAR provides a P&S agreement.
- ☐ *Consider applying to the CLTC program if doing a partial landowner donation and start the approval process early to get on the list.
- ☐ MDAR may submit your application to its federal funding partner, the USDA Natural Resources Conservation Service (NRCS), and if federal funding is available and approved, MDAR will bring the project forward to the ALPC for a final vote. A final vote signals the intention of the state to move forward with the APR, subject to available funding. If federal funding is not available from NRCS, another funding partner could be explored.
- ☐ *MDAR contracts with an independent surveyor. You review the 50-percent-cost-share-agreement for the survey before signing. You meet with the surveyor and MDAR field representative, review the survey draft, and review it with your attorney.
- ☐ MDAR schedules a site visit for a baseline documentation report (BDR) that describes the condition of the property. Review and sign this initial BDR, and a final BDR prior to closing.
- ☐ *Receive MDAR's packet of landowner documents for your review, your attorney's review and your signature. Complete and sign the APR documents.
- ☐ MDAR will arrange for a closing, the APR agreement is recorded, and you receive payment.
- ☐ After the APR process is complete, MDAR stewardship staff communicate with you about ongoing monitoring of the farmland and assistance available through the APR program and other MDAR programs.

NOTE: Depending on your situation, these steps may occur in a different order and have a different schedule than shown.

An asterisk () notes steps where a land trust might be particularly helpful. Find your local land trust at www.massland.org.

FLOW CHART & TIMELINE

APR Program Process



APPLICATION TIMELINE CONSIDERATIONS

The time required to secure funding affects the amount of time needed for the APR process. For example, an application with MDAR and local contributions may take several months. On the other hand, an application with more complex funding - from MDAR, NRCS, a land trust, a municipality, a landowner donation, and other donations - may take two or three years. Each application is unique. Speak with APR staff about options for your circumstances.

CLTC TAX CREDIT INFORMATION

Commonwealth Conservation Land Tax Credit (CLTC)

The Executive Office of Energy & Environmental Affairs (EEA) is pleased to announce the availability of tax credits of up to \$75,000 for a donation of conservation land. The Conservation Land Tax Credit program recognizes and rewards landowners who donate a real property interest either outright, or through a Conservation Restriction or Agricultural Preservation Restriction. The donation must permanently protect an important natural resource such as forest land that is in the public's interest. The program is funded for up to \$2 million a year so there is often a waiting list.

All donors must apply to and be certified by EEA prior to the donation. The land must have sufficient natural resources in the public interest and the instrument used must perpetually protect the land.

The donor(s) are provided a tax credit of 50% of the donation value, up to the \$75,000 maximum. Donors do not have to reside in the Commonwealth of Massachusetts to qualify.

TYPES OF LAND IDEAL FOR THIS TAX CREDIT

Land that may qualify as Certified Land may include the following:

- Drinking water supplies
- Wildlife habitats and biological diversity
- Agricultural and forestry production
- Recreational opportunities
- Land holding scenic and cultural values

WHAT EXACTLY IS A TAX CREDIT?

As an example; If you qualify for a \$75,000 tax credit and you have a \$2,000 state tax liability in the same calendar year; the tax credit would reduce your taxes to \$0 for that year. After you file your taxes, you would receive a check back for the remaining \$73,000.

PROCESS

The application for the CLTC is a three part process. With several approvals along the way to help make sure that a landowner is not subjected to unnecessary expenses before knowing if their donation will even qualify for the tax credit.

- Part I is the review of the proposed documents and focused on the quality of the donation for an initial determination of eligibility.
- If the first part results in a determination of eligibility, Part II requires the applicant to provide EEA with an appraisal of the Certified Land to be donated and a statement of how much of that will be the gift. EEA will then issue the applicant a notice to proceed.
- Part III requires the applicant to complete the donation through a closing and send in things like a title exam and copies of recorded documents.

SELECTION CRITERIA

EEA will evaluate what percentage of the proposed donation is known to be on critical environmental landscape maps. Such as Biomap 2, prime soils for agriculture or forestry, prime forest or drinking water protection zones. Based upon that evaluation, properties determined to be of sufficient natural resource values are selected to continue to part II.

Further Information Questions can be directed to Tom Anderson (thomas.anderson@state.ma.us) at (617) 626-1013.

SOURCE: <https://www.mass.gov/service-details/commonwealth-conservation-land-tax-credit-cltc>

INCLUSION/EXCLUSION WORKSHEET

When applying for an APR, it is important to consider what to include or exclude on the APR property. Here's a worksheet with a broad list of considerations for discussion with family, MDAR staff, land trust staff and others. MDAR APR field representatives are happy to discuss your options and assist you to help you meet your goals and needs.

BUILDINGS & STRUCTURES	ALLOWED OR NOT ALLOWED	INCLUSION		EXCLUSION		COMMENTS
		PROS	CONS	PROS	CONS	
<i>Example: Barn</i>		Adds to farm business success.	Future use must be consistent with the APR. Non-agricultural uses need a special permit.	It can be developed as part of a non-farming use in the future without the need for a special permit.	Could be separated from the farming operation in future years if sold separately from the APR, which could impact the farm business if the barn is an active part of the farm business.	
BARN/SHED						
<i>Animals, Equipment, Feed, Hay, Tools, Farm Vehicles</i>						
FOOD PROCESSING						
<i>Preservation, Refrigeration, Storage, Wash, Pack</i>						
HOUSING: TEMPORARY						
<i>Camp, Tent, Tiny House, Yurt</i>						
RETAIL						
<i>Farmstand without Utilities Farmstand with Utilities Brewery, Restaurant, Cafe</i>						
WATER						
<i>Well, Pond, Septic System, Irrigation, Drainage</i>						
OTHER						
<i>Energy Installation, Solar, Wind, Geothermal, Other</i>						

Other Considerations: If you exclude property for dwellings/construction make sure it's a legal size lot for local Planning Board approval and that if zoning requirements change only lots officially approved and signed by the Planning Board will be grandfathered. No boundary lines can go through structures. Buildings/Land impact farm viability. Set backs from buildings and boundaries for zoning may be required which may impact land that needs to be excluded from the APR. Impervious surfaces may be a maximum of 2% of the land.

APR FREQUENTLY ASKED QUESTIONS

QUESTION

Why do APR agreements differ from one farm to the next?

ANSWER

APR agreements have changed since they were first written in 1980 because times have changed, MDAR and landowners have learned from past experience, and there are changing requirements from various funding sources. The APR agreement that a landowner signs is what guides the use on that landowner's property, so each landowner should look to their own APR agreement for guidance.

QUESTION

Why are there different uses allowed on different APR farms?

ANSWER

- (A) APR agreements from different eras allow some different things.
- (B) The soils and natural resources on each farm guide whether different kinds of uses are appropriate.
- (C) Different farmers and owners want to pursue different things and what each farming operation can support is different.

Different era APR agreements have different minimum terms which MDAR and the landowner agreed to

before signing the APR agreement at the time, so landowners need to look at their own APR agreement for what is permitted. Some uses are also determined by the soil or agricultural resources, which can vary by farm, so the combination of all those aspects makes each farm and its circumstances unique. For example, there would be a difference in proposing to put a barn on non-productive land and proposing to put one in the middle of a field of prime agricultural soils.

Additionally, there are different categories of uses, depending on the APR agreement. Some uses are allowed "by right" which means without having to consult or request permission from MDAR, and others require approval or a special permit. Where consultation or approval is required, most APR agreements provide criteria for MDAR to use in reviewing the request to determine whether or not the use should be permitted.

Most APR agreements also guide how MDAR determines whether something can be allowed, based on its impact on the property's agricultural resources and based on that MDAR can 1) approve, 2) deny approval, or 3) grant approval only if certain conditions are met. Landowners can choose to move forward or not if they are amenable to the conditions. If the landowner does not agree with the conditions or the decision, the landowner can appeal the conditions or the decision to the Agricultural Lands Preservation Committee.

It is also important to note that some APR farming operations may include land or structures that are not part of the APR, so uses on non-APR land would not be bound by the APR agreement.

QUESTION

Can we install solar power to reduce our energy cost?

ANSWER

Installing solar on roofs is allowed and does not require permission since it will not impact agricultural soil resources one way or another, but ground-mounted solar needs approval to ensure that agricultural soils will not be negatively impacted. For more details see MDAR's APR Renewable Energy Policy at www.mass.gov/APR and click on "APR Program Details".

QUESTION

Why can't a farmer just do what s/he wants on APR land?

ANSWER

When a farmer applies to the APR program to protect their farmland forever for farming, they go through a legal process to clearly say how the land will be protected, so it is clear for everyone at the time MDAR purchases the APR and it limits the likelihood of misunderstandings in the future.

APR FREQUENTLY ASKED QUESTIONS

Farmers decide what parts of their farm they want to protect and not protect right from the beginning, and then they and all future owners are legally bound by that agreement. The APR program is buying the agricultural preservation restriction to ensure that the property remains in agricultural use in the future. That is a public benefit that public funds can be used to achieve. If a landowner could do anything they wanted with the land after the APR was purchased, the public benefit would not be there and there would be no value or a lot less value for the farmer to get paid.

To go into more specifics, the APR program is a competitive program where landowners voluntarily apply to see if their farmland will qualify to enable them to access the value in that land without having to sell the land itself. This allows the farmer to get the equity out of their land while still being able to continue farming it.

Each landowner and MDAR agree to and sign an agreement with terms that guide what happens on the land. The value that the landowner gets paid is determined by an appraisal based on the terms of that APR agreement.

A professional appraiser determines that APR's value through a detailed market analysis of what real estate sales say someone would pay for the land without the APR and then what someone would pay for it once the agricultural restriction is in place. If MDAR then allowed uses on the APR

that were not permitted, MDAR would have paid for something that it did not receive.

If a landowner does not want to restrict what they can do with their land they can choose to not apply to the APR program, and if they apply but don't agree with the appraised value they do not have to complete the sale.

QUESTION

Is it OK if I renovate my barn a little so I can have weddings on my APR land? I need the income. A neighbor said she thinks weddings might be possible in the barn and she's interested in renting it.

ANSWER

Look at your APR agreement and survey to see where the APR boundary is. See if the barn is part of the APR. If it is, you may (since some early APRs would not require approval) need to contact MDAR staff about getting an approval or special permit. Speak with MDAR staff about your circumstances to find out what other resources – technical assistance and funding – may be useful and available.





AGRICULTURAL PRESERVATION RESTRICTION (APR)

APR PROGRAM STEWARDSHIP

Guidance for Landowners

Stewardship

The APR agreement is a long-term obligation to protect farmland in Massachusetts. By entering into an APR agreement with MDAR you are ensuring that your land is permanently protected for agricultural purposes. An APR agreement is a legally binding and permanent interest in your property. MDAR's stewardship program is a resource to help ensure that terms are carried out.



THE APR AGREEMENT

The APR agreement is a binding agreement between you and the state of Massachusetts. It exists in perpetuity, runs with the land, binds all future owners of the APR land, and is recorded at the appropriate Registry of Deeds. Any inconsistency between the language of an APR agreement and the language of a regulation or policy (such as a new MDAR policy) will be resolved in favor of the APR agreement.

Baseline Documentation Report

A baseline document report (BDR) is prepared for every new APR to document the conditions of the property at the time it is protected. The BDR contains a detailed narrative, maps, and photographs to describe the property. MDAR stewardship staff and contractors use the BDR as a reference during monitoring visits to identify changes to the property (human-made or natural) and assure that the terms of the APR are upheld in perpetuity. If you need a copy of your BDR, please contact MDAR.

APR Documents

Each APR agreement is unique. You should keep copies of correspondence and documents stored in a safe place and be able to refer to them at any time. These might include your APR agreement, letters, notices, specific paperwork for your APR land, and information regarding the APR program. MDAR keeps records on file if you need a copy and APR staff are available to answer questions.

If you are interested in adding or modifying property structures and/or land use activities, please read your APR agreement and contact APR stewardship staff beforehand to be familiar with your rights and responsibilities under the APR agreement. There are times when MDAR approval is needed before changes can be made; see guidance on agricultural and non-agricultural changes that require a certificate of approval or a special permit can be found on the pages that follow.

Communication with MDAR

MDAR staff are available year-round for questions and answers. To help MDAR ensure consistency with the APR agreement, stewardship staff may also contact you annually to provide an opportunity:

- For you to ask questions
- For you to request approvals or permits for changes and activities that impact your farmland
- To give you information about technical assistance and grants to support your farm viability and growth

MDAR stewardship staff, state-approved contractors, and/or NRCS staff may conduct reviews which include:

- Annual, routine, visual inspections of your farm with prior notice to you
- On-site visits regarding an approval or a violation that requires a follow up
- Reports with photos, maps or written documents to describe conditions of the property over time

The Approval Process for Changes to Your APR Land

Over time, you may want to make changes on a property with an addition or an innovative project. Changes that require prior approval may include, but are not limited to, these activities and uses: buildings and structures, field alterations, educational use, energy installation, events, recreation, agritourism activities, and vehicle storage/parking.

Changes to your property may require an approval from the APR program. Contact APR stewardship staff to discuss any changes requiring approval and send an MDAR application for the change to MDAR.

If the application is approved, and after the change is implemented, the stewardship staff will make a site visit to confirm that the outcome aligns with the terms of the approval and to document the project.

The following two pages describe the two approval processes for: 1) a certificate of approval (COA) for agricultural changes and 2) a special permit for non-agricultural changes. Both approvals assure that any changes made will protect or improve the agricultural land.

Compliance

If it comes to MDAR's attention that the terms of the APR agreement are not being upheld, procedures for enforcement of those terms include but are not limited to the following:

- A site visit by MDAR staff.
- If a violation of the APR terms is identified, a written notice is sent to you requesting voluntary restoration or reparation of the property. MDAR's goal is to communicate and work cooperatively so that you and

MDAR will achieve mutually acceptable solutions. If a satisfactory agreement is reached between you and MDAR, an inspection will be made to confirm satisfactory implementation, and you will receive written correspondence to confirm resolution of the issue.

- If MDAR and the landowner cannot reach a satisfactory resolution, MDAR may pursue resolution through legal means.

Refer to your APR agreement to see prohibited uses, acts, and structures on your APR property. These may include, but are not limited to: residential dwellings, dumping of waste, earth mining/removal, storage of vehicles, and easements for utilities or roads.

Refer to your APR agreement, "The Approval Process For Changes to Your APR Land" section above, and the following pages for examples of activities and uses that may require a Certificate of Approval or Special Permit.

APR PROGRAM STEWARDSHIP

Certificate of Approval (COA)

You should review your APR agreement and talk with APR staff to understand what does and does not require approval.

Changes in **agricultural** structures or activities require a COA. Unless otherwise stated in your APR agreement changes:

- Cannot result in impervious surfaces greater than five acres or five percent of the APR land, whichever is less, and if the APR agreement has a more stringent requirement, it will prevail
- Must minimize, to the fullest extent possible, the loss of agricultural soils
- Must not interfere with agricultural operations and will preserve, maximize, and realize the agricultural potential of the APR land, and in addition, improve future agricultural operations

Examples of actions that require a COA include, but are not limited to activities such as:

- Construction of a farm stand, housing for farm labor, an alternative energy system, or any other agriculture-related structure (NOTE: Roof-mounted solar does not require approval)
- Soil excavation for any reason

YOUR RESPONSIBILITIES

- You must begin the approved activity within one year of receiving the COA.
- Construction or excavation must be completed within two years.
- You must follow the conditions set forth in the COA.
- You must notify MDAR in writing within 30 days of the completion of the COA activities.

MDAR RESPONSIBILITIES

Upon completion of the COA activities, MDAR shall:

- Inspect the completed COA to determine compliance with the agreement.
- Confirm the inspection results in writing.

A COA application is available on page D:6 and at www.mass.gov/apr at "APR Program Details".

PROCEDURES FOR A COA

- ① You review your APR agreement and contact APR stewardship staff with any questions.
- ② You send a signed COA application describing the proposed use, activity, or structure.
- ③ Within 90 days, MDAR will review the application, may inspect the APR property, and issue a decision.
- ④ If approved, MDAR will issue a COA which may require specific conditions, in writing.
- ⑤ If denied, MDAR will mail a written notice and offer the right to request (within 21 days) an appeal hearing before the Agricultural Lands Preservation Committee (ALPC). *See page D:4 for more information.*

APR PROGRAM STEWARDSHIP

Special Permit

A **non-agricultural** activity on an APR property requires a special permit. It may be issued for a five-year-maximum timeframe and may be renewable upon request after review by MDAR. The activity must align with the APR agreement, Massachusetts building codes, and APR program special permit guidelines in effect at the time of the application.

Examples of non-agricultural events or activities include but are not limited to: concerts, festivals, races, weddings, or the use of land to store or park trailers, boats, cars, or other non-agricultural equipment.

MDAR MAY GRANT A SPECIAL PERMIT IF:

- The APR farmland is actively used for full-time commercial agriculture.
- The activity is minor, ancillary and subordinate to the agricultural use of the APR property.
- The use or activity does not conflict with the purpose of the APR.
- The request does not require new construction.

YOUR RESPONSIBILITIES

- You must start the activity within one year of approval.
- You must follow the conditions set forth in the special permit
- A special permit may be issued for any length of time up to a maximum of five years.
- You may request that MDAR renew the special permit.
- You may record the special permit at the Registry of Deeds and provide a copy to MDAR.

MDAR RESPONSIBILITIES

- At any time during the initial term or renewed term (if one is granted), MDAR may conduct a site visit to confirm compliance with the special permit.
- Confirm the inspection results in writing to the landowner.

SOURCE: www.mass.gov/files/documents/2016/08/py/apr-special-permit-policy.pdf

PROCEDURES FOR A SPECIAL PERMIT

- ① You review your APR agreement and contact APR stewardship staff with any questions.
- ② Sign and send a request describing all proposed non-agricultural activities or uses.
- ③ MDAR will review the request, may inspect the land, and will issue a decision within 90 days.
- ④ If approved, MDAR will issue a special permit. The APR landowner, among other conditions, may be required to post a bond or other security.
- ⑤ If denied, MDAR will mail a written notice and offer you the right to request (within 21 days) an appeal hearing before the ALPC.

Special Permit information and an application are available on pages D:7-8 and at www.mass.gov/apr at "APR Program Details".

Appeal Hearings for Certificates of Approval and Special Permits

You may request a hearing before the ALPC regarding the denial of a COA or a special permit. MDAR will mail you a written denial notice and offer the right to request (within 21 days) an appeal hearing before the ALPC. After receiving your request, the ALPC will:

- ① Hold an adjudicatory hearing which means you may present evidence and facts.
- ② Provide a designated a hearing officer to preside over the hearing.
- ③ Assemble an official record of the hearing.
- ④ Render the final decision and notify you in writing.

APPROVAL WORKSHEET

Subject to Change

Over time you may want to make a change on an APR property with an addition or an innovative project. Changes to your APR property may require an approval from the APR Program. Changes that require approval may include, but are not limited to, activities and uses listed on this worksheet.

A Certificate of Approval (COA) is needed for changes in **agricultural** structures or activities. A Special Permit is needed for a **non-agricultural** activity. If you want to make changes, consult

your APR agreement for what is allowed or not allowed. Approval requirements may vary a lot among older and modern APRs.

Contact APR stewardship staff to discuss any changes requiring approval and send an MDAR application for the change. See pages that follow for the COA and Special Permit applications.

MDAR APR stewardship staff are happy to assist to help you meet your goals and needs.

STRUCTURES & ACTIVITIES	ALLOWED / NO APPROVAL NEEDED	PROHIBITED	COA NEEDED	SPECIAL PERMIT NEEDED	MDAR DISCRETION	COMMENTS
AGRI-TOURISM						
Farm-to-table meals, harvest festival, tours, U-pick						
BUILDINGS & STRUCTURES						
Barn/Shed: animals, equipment, feed, hay, feed, tools, farm vehicles						
Food processing: preservation, refrigeration, storage, wash, pack						
Greenhouse						
Housing: Permanent owner, farm manager, labor						
Housing: Temporary Camp, tent, tiny house, yurt						
Retail: farmstand without utilities, farmstand with utilities, brewery, café, restaurant						
CHANGE IN FIELDS						
Change in agricultural production, regrading field to remove rocks						
EDUCATION						
Summer camp, agricultural education						
ENERGY						
Exploratory drilling, fracking, geothermal, solar in a field, wind, wood stove, other						
EVENTS						
Bed and breakfast, movie set, music concert, wedding						
HORSES						
Riding area, school, stable						
MOVING/STORING: COMPOST, ROCK, SOIL						
Compost processing and storage, excavation for a road or utility, leveling a knoll, mining of soil/sand/gravel, mining or storage of soil, sand, gravel						
RECREATION						
Camping, corn maze, cross-country skiing, hunting, fishing, obstacle courses, races, sports, snowmobiling						
VEHICLES						
Car show, garage, parking area, new access road						
OTHER						

APPROVAL APPLICATION

CERTIFICATE OF APPROVAL (COA)

MDAR APR Program Approval Application – Part 1

Include additional pages to any part if you need more space.

LANDOWNER CONTACT

Full Name:

Street Address:	City:	State:	Zip Code:
Phone:	E-mail Address:		

APR PROPERTY

Property Name:

Street Address:	City:	Zip Code:
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Is the APR co-held by a municipality? ☐ YES ☐ NO

If Yes, you may need to request additional approval from the co-holder. Refer to your APR agreement or contact APR staff.

TYPE OF APPROVAL

☐ New Structure ☐ Improvement ☐ Excavation ☐ Alternative Energy ☐ Labor Housing* ☐ Residential Dwelling*

**NOTE: If Labor Housing or Residential Dwelling are chosen, also use the Special Permit Form (next page)*

Briefly describe the activity needing approval:

Describe the impact to productive, agricultural areas:

ADDITIONAL INFORMATION

Check the item and provide the following information that applies to you:

- ☐ **Agricultural Structure:** List the dimensions, square footage, relationship to existing roads, utilities and other buildings, usage of structure, and usage of proposed site.
- ☐ **Retail Structure:** List the types and amounts of products grown and sold, the anticipated products grown, and their seasonality.
- ☐ **Agricultural Improvement:** Describe the improvement, for example: irrigation system, drainage system, composting system, etc. List type and size.
- ☐ **Excavation:** Describe the project, for example: new farm road, leveling a knoll, erosion repair. List the area dimensions and soil volume, and types of soils affected.
- ☐ **Energy:** Describe the energy system, outputs, power offsets, location/siting, and your current on-APR farm energy usage.

Applicable Information:

Landowner(s) Signature:	Date:
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Requirements:

- You must include a map and layout plan that also shows the location of the proposed work. Submit this as Exhibit A with your application.
- Upon review of the application, MDAR reserves the right to request additional materials such as a business plan with projected income, a site map/plan, or farm plan.
- Work related to this application may commence only after receiving a recordable certificate of approval (COA) from MDAR.

APPROVAL APPLICATION

SPECIAL PERMIT FOR NON-AGRICULTURAL USE

MDAR APR Program Approval Application – Part 2

*This application must also include the Approval Application Part 1 - Certificate of Approval (COA) on the previous page.
Include additional pages to any part if you need more space.*

LANDOWNER CONTACT

Full Name:

Street Address:	City:	State:	Zip Code:
Phone:	E-mail Address:		

Proposed Non-Agricultural Use/Event/Activity (herein referred to as "The Activity"):

APPLICATION INFORMATION

**If the answer to any of the following questions is "yes", do not proceed with this application.
Instead contact APR staff for information on how to proceed.**

- Do you have a contract in place with a third party to manage The Activity?
- Do you intend to construct any new structures for The Activity?
- Will the Activity have an adverse impact on soil resources?
- Will the Activity require any excavation?
- Regarding the area where The Activity will be located, has the area been converted from active agricultural use to non-agricultural use in the preceding five years?

PROPOSED NON-AGRICULTURAL USE

List the proposed non-agricultural use, the types of associated activities, dates, attendance, and admission charge:

NON-AGRICULTURAL USE	THE ACTIVITIES	DATE(S)	ATTENDANCE	COST

WHERE THE ACTIVITY WILL BE OCCURRING ON THE APR PROPERTY

Attach a map/sketch/plan with where The Activity will be occurring on the APR property and specifically describe The Activity here.

CURRENT AGRICULTURAL OPERATIONS

Describe all current agricultural operations in detail. *Include the type of operation, seasonality, commercial sales/vending agreements/retail/cooperative ventures.*

APPROVAL APPLICATION

SPECIAL PERMIT FOR NON-AGRICULTURAL USE

MDAR APR Program Approval Application – Part 2 CONTINUED

*This application must also include the Approval Application Part 1 - Certificate of Approval (COA) on the previous page.
Include additional pages to any part if you need more space.*

RELATIONSHIP WITH CURRENT EXISTING AGRICULTURAL OPERATIONS

What is the direct relationship between The Activity and the current existing agricultural operations? *If none exists, state the justification or need for The Activity.*

BENEFIT OF EXISTING AGRICULTURAL OPERATIONS

Describe how The Activity will benefit the existing agricultural operations.

CHANGES TO EXISTING STRUCTURES

Describe any changes you need to make to existing structures to accommodate The Activity.

FINANCIAL ACTIVITY

Gross income from the farm in the preceding two tax years (with the most recent first):

GROSS INCOME YEAR ONE (RECENT YEAR): \$

GROSS INCOME YEAR TWO: \$

Anticipated gross income from the proposed non-agricultural use:

\$

Explain the type of activity and any anticipated increases in sales of farm products as a result of the permitted activity:

NOTE: Upon further review, you may be asked to provide the following: a business plan, projected agricultural uses plan, Natural Resources Conservation Service Farm Management Plan, a surety bond, letter of credit or other form of performance insurance of an amount or value commensurate with potential damages and need for restoration.

All MDAR approvals may be subject to specific binding conditions as stated in the final approval document issued by MDAR. This Special Permit application will not be complete until a field visit has been scheduled with APR staff or with an MDAR-approved contractor. ***This application will not be considered complete without the attachment of a map/sketch/plan showing area of impact/location of The Activity.***



AGRICULTURAL PRESERVATION RESTRICTION (APR)

CHANGE IN OWNERSHIP

Selling or Transferring APR Land

Not all, but most APR agreements include an Option to Purchase at Agricultural Value (OPAV) or Right of First Refusal (ROFR) and need an MDAR waiver before the sale – if yours does not MDAR will let you know. A landowner wishing to sell or transfer ownership of an APR property with a ROFR or OPAV should notify APR staff immediately to request a waiver. A waiver states that MDAR waives its right to purchase the farmland which would then allow the sale of the APR to move ahead.

It's important for you to review and understand the process for the sale or transfer of your APR land. The process and timeframe are clearly described in your APR agreement and may be different for each landowner APR agreement. It's important to review your APR agreement with your attorney and realtor. Please note that the process for a decision on an approval for a sale or transfer could take up to 120 days.

Notifying MDAR

If you intend to sell or transfer and receive an offer to purchase, you must notify MDAR in writing as stated in your APR agreement. For example, a letter requesting a waiver for an OPAV must include copies of:

- The offer to purchase
- The purchase and sale agreement and any amendments
- Any appraisal prepared for the proposed sale specifying the fair market agricultural value (FMAV)
- Any appraisal prepared for the sale in which the landowner acquired the APR property
- Other relevant documents relating to the proposed sale

Documentation will be reviewed. If the sale or transfer contains non-APR property, such as a house or land that is not covered by an APR, the landowner should apportion the value between any APR property and any non-APR property. Written notice to MDAR is required and unless otherwise agreed to must be delivered by certified mail, return receipt requested; or hand delivered to MDAR's address listed at mass.gov/agr.

CONSIDERING A SALE OR TRANSFER?

Notify MDAR immediately. Some APRs have an Option to Purchase at Agricultural Value (OPAV) or Right of First Refusal (ROFR) and may need an MDAR waiver before the sale which may take up to 120 days. This information is clearly described in your APR agreement. If you can't find it, notify MDAR to request a copy.

Of the approximately 900 APR agreements about 650 have an OPAV, 100 have an ROFR, and the rest are early APR agreements with no such provisions.

Right of First Refusal (ROFR) is the right to allow the Commonwealth the opportunity to purchase the property if it is offered for sale. If you apply for a waiver MDAR may, and usually does, waive its right to purchase.

Option to Purchase at Agricultural Value (OPAV)

is a legal tool to ensure the agricultural land remains available to farmers at agricultural value.

OPAV, ROFR, and Waiver guidelines are available at www.mass.gov/apr at "APR Program Details".

Guideline and Policy Updates

MDAR and the Executive Office of Energy and Environmental Affairs (EEA) have established guidelines, policies, and procedures in addition to APR documents, that are periodically updated and provide further guidance for APR landowners. Any inconsistency between the language of an APR agreement, policy or regulation will be resolved in favor of the APR. All APR regulations and MDAR policy documents are posted on MDAR's website and MDAR will provide copies to a landowner upon request. The ALPC may advise and make a recommendation to MDAR for policy development or changes. ALPC meetings are held quarterly as needed, are open to the public, and are a forum for the public to comment on proposed changes to policy.

The complete regulations are available at www.mass.gov/apr and may be consulted for details. If you would like a printed copy of the regulations, please contact the MDAR APR office at 617-626-1700, www.mass.gov/apr.

OPAV PURPOSE

The OPAV's purpose is to make sure farms are available to farmers at an agricultural value. Because of the OPAV, which was pioneered by MDAR in 1992 as the first in the nation, hundreds of protected farms have remained in the hands of Massachusetts farmers.

Guidance

The pages that follow may assist you with APR change of ownership process..



SELLING OR TRANSFERRING LAND

FOR LANDOWNERS

Selling or Transferring APR Land

Not sure where to start or what to do?

Here are some quick suggestions:

- Review your APR agreement and contact MDAR as early as possible. Can't find your APR agreement? Contact APR staff to request a copy.
- Some APRs contain a Right of First Refusal (ROFR) or an Option to Purchase at Agricultural Value (OPAV). Check your APR agreement to understand if either of these applies to your APR land.
- If there is an ROFR or an OPAV, specific procedures must be followed (samples include: obtaining an appraisal of the Fair Market Agricultural Value (FMAV) or the Fair Market

Value (FMV), preparing a farm plan, drafting an offer letter, etc.) Your APR agreement - in combination with APR guidelines, policies and regulations - lists the requirements and the timeframe for the process. A decision could take up to 120 days after all documents are submitted to MDAR.

- MDAR has published regulations describing the process at www.mass.gov/apr.
- It is advisable to contact an attorney to help you through not only the land sale/transfer process but also the APR-specific process.
- APR staff are available to walk you through the process.

FOR REAL ESTATE PROFESSIONALS

Questions and Considerations Before Listing a Property

- Is all or a portion of the property in agricultural use?
- Does it have an Agricultural Preservation Restriction (APR)? If so, the buyer must be informed and should read the APR agreement before deciding to purchase the property.
- Each APR property has an APR agreement that is a public record at the Registry of Deeds. The landowner and MDAR also have copies of the APR agreement.
- Some APRs contain a Right of First Refusal (ROFR) or an Option to Purchase at Agricultural Value (OPAV).

You and the landowner must check the APR agreement to understand if either of these applies to the APR land.

- If there is an ROFR or an OPAV, specific procedures must be followed (examples include: obtaining an appraisal of the FMAV, preparing a farm plan, drafting an offer letter, etc.).
- The landowner's APR agreement - in combination with APR guidelines, policies and regulations - lists requirements and the timeframe for the process. Information is available at www.mass.gov/apr.

- It could take up to 120 days after all documents are submitted to MDAR before a decision is made.
- Does the listing make it clear that the land is subject to an APR?
- Does the Purchase and Sale limit the price to the FMAV and list the price for any non-APR land separately?
- Does the APR agreement prohibit sub-division?
- The buyer may be required to submit a farming resume, farm business plan and a financial plan.

UPDATES:

Please note that policies and guidelines may change over time. Any inconsistency in the language of an APR agreement, policy or regulation will be resolved in favor of the APR agreement. APR Program updates are available at www.mass.gov/APR or you may contact MDAR staff at (617) 626-1700.

OPAV, ROFR, AND WAIVER POLICY

Option to Purchase at Agricultural Value (OPAV) and Right of First Refusal (ROFR)

As of July 26, 2019, the Department has updated the APR regulations to include sections outlining the approach the Department must take when considering whether to exercise its options to purchase APR land at the time of sale. The new regulations outline the process that MDAR must follow when reviewing APR transfers, describe an automatic waiver process, a withdrawal option and also a right to appeal decisions to the ALPC for landowners. Here is a summary of how it works:

In 1985, the APR program implemented two tools that give the Commonwealth the ability to purchase APR protected farmland when it is put up for sale. These tools, called an “Option to Purchase at Agricultural Value” (OPAV) and “Right of First Refusal” (ROFR) enable, but do not require the Commonwealth to purchase APR protected land when it is up for sale. Since 1985, **most** APRs have included a purchase option:

- ① **APRs before 1985 do not have an ROFR or OPAV**
- ② **APRs acquired between 1985 and the first half of 1994 include a ROFR**
- ③ **APRs acquired after the second half of 1994 include an OPAV**

In practice, unlike state agencies such as DCR and DFW, MDAR does not purchase APRs. Yet under certain circumstances MDAR may be required to transfer this right to purchase APRs at the time of sale to an interested buyer other than the original buyer. In the vast majority of transfers, MDAR chooses to “waive” its OPAV or ROFR and not become involved in the transfer.

When an APR landowner has a bona-fide offer from an interested buyer, the APR landowner with an APR agreement that contains an OPAV or an ROFR provision, must notify

MDAR of their intent to sell and offer the land to the Commonwealth to purchase. Along with this notification a landowner can also include a request that MDAR waive its right to purchase. After receiving the notification, MDAR reviews the details of the sale and decides whether to waive its right or elect to utilize its right to purchase the land. If MDAR elects to exercise its right to purchase the APR property, it will not actually purchase the land but will instead seek to transfer or assign its right to purchase to another person or entity, usually a farmer. The Department will do this through a public bidding process. Owners of APRs without an OPAV or an ROFR provision do not have to notify the Department when selling their APR land.

Over the course of the 40-year history of the APR program, MDAR has waived its right to purchase the APR in the vast majority of cases. MDAR has only transferred its right on four occasions. This transfer of rights (also known as “Assignments”) is rare and has only occurred when MDAR’s review of a proposed sale concluded that the proposed buyer was not a farmer or where the property was for sale at a greatly inflated price above agricultural value.

At the 2018 APR Listening Sessions, some comments about the waiver process for ROFRs and OPAVs were brought forward. Later, a state audit of the APR program provided recommended changes; one of these specifically gave a landowner the right to withdraw from the waiver process. Legislation subsequently mandated changes.

As of August 2019, MDAR updated the APR regulations to address how requests for waivers of ROFRs or OPAVs will be managed when submitted. The new regulations outline the process that MDAR must follow when reviewing APR sales; and describe an automatic waiver process, a withdrawal option and also a right to appeal decisions to the Agricultural Land Preservation Committee (ALPC) for landowners. The following is a summary of the main changes to the APR regulations.

WAIVER REQUIREMENTS

Waiver Requirements

When an APR landowner has a bona-fide offer from an interested buyer the APR landowner must notify MDAR of the intent to sell and offer the land to the Commonwealth to purchase or request that MDAR waive its right to purchase the property. Upon receiving the notification, MDAR reviews the details of the sale and decides whether to waive its right or elect to utilize its right to purchase the land.

- An **Automatic Waiver** requires that MDAR waive its right to purchase when all these criteria are met:
 - *The buyer is a farmer.*
 - *The buyer submits a Farm Business Plan.*
 - *The landowner received a good faith offer and submitted to MDAR a certified copy of an executed Purchase and Sale Agreement.*
 - *The landowner provides justification, deemed valid by MDAR, when a purchase price is 20% or greater than the Fair Market Agricultural Land Value (FMAV). Fair Market Agricultural Land Value (FMAV) does not include dwellings that may be on the APR or the value of an Agricultural Business.*
 - *The buyer has no record of a prior violation on an APR held by the Commonwealth. (MDAR may waive this requirement if the violation is deemed minor).*
- If the criteria for an Automatic Waiver are not met, the Department *may* choose to issue a **Discretionary Waiver** when:
 - *The buyer is a farmer, a beginning farmer or a non-profit corporation organized for the purposes of leasing land to one or more farmers or beginning farmers.*
 - *The buyer submits a Farm Business Plan for review by MDAR and MDAR determines the plan is complete and presents a viable and achievable plan that is compatible with the APR and APR parcel.*
 - *The buyer has no record of a prior significant APR violation on an APR held by the Commonwealth. (MDAR may waive this requirement if the violation is deemed minor).*
 - *The buyer provides justification, deemed valid by MDAR, when the purchase price is 20% or greater than the Fair Market Agricultural Value (FMAV). Fair Market Agricultural Land Value includes the value of dwellings that may be on the APR and the value of an Agricultural Business.*
- A landowner may withdraw from the offer and process at any point prior to MDAR exercising its right or transferring its right to purchase.
- A landowner may appeal MDAR's decision regarding a waiver by contacting the ALPC which will then hold a hearing to consider the appeal.
- MDAR is always available to discuss the waiver process with the landowner. Future APR agreements will require a meeting with MDAR, the landowner and potential buyer

TIMELINE & TASKS

Thinking about selling or transferring APR land?

STEP 1

Review your APR agreement and contact MDAR as early as possible. Can't find your APR agreement? Call an APR staff member to request a copy.

STEP 2

Notify MDAR of intent to sell. Request a **Waiver** if you have an offer. See Waiver Requirements.

to discuss the ROFR, OPAV and waiver before the sale of an APR.

If MDAR elects to or exercise its right to purchase the APR, it will not typically purchase the land but will, instead, seek to transfer, or assign, its right to purchase to another person or entity, usually a farmer. The Department will do this through a public RFP process.

A landowner can also consult his/her APR agreement to review individual APR seller requirements. If you would like a printed copy of the regulations, please contact Dorothy Du at dorothy.du@mass.gov or (617) 626-1741

WAIVER WORKSHEETS

This page and the next two have checklists to assist you with the waiver process.

MDAR ASSESSMENT: CHECKLIST & TIMELINE

Automatic Wavier	Discretionary Waiver
The potential purchaser is a farmer and has been a farmer for two of the last five years preceding the sale.	The potential purchaser is a farmer, beginning farmer, or a nonprofit corporation organized for the purposed of leasing land to farmers or beginning farmers.
The owner has received a good faith offer.	The owner has received a good faith offer.
The owner has submitted a certified copy of a purchase and sale agreement and complied with the specific terms in the APR agreement.	The owner has complied with the specific terms in the APR agreement.
The potential purchaser has no prior record of a violation of the terms of the APR agreement.	The potential purchaser has no prior record of a violation of the terms of the APR agreement.
Written justification if the purchase price is 20% or more than the Fair Market Agricultural Land Value.	Written justification if the purchase price is 20% or more than the Fair Market Agricultural Value.
The potential purchaser submits a complete, viable and achievable farm business plan covering a 5-year period.	The potential purchase submits a complete, viable and achievable farm business plan covering a 5-year period.
<p>The Farm Business Plan includes:</p> <ul style="list-style-type: none"> ▪ Potential purchaser's commercial farm experience ▪ All land uses proposed ▪ Production information and products to be sold ▪ Crops to be grown and acreage ▪ Livestock to be raised and acreage ▪ Use of existing structures ▪ Need for additional structures ▪ Description of markets ▪ Personnel Information ▪ Relationship of APR parcel to other land owned or leased by the potential purchaser 	<p>The Farm Business Plan includes:</p> <ul style="list-style-type: none"> ▪ Potential purchaser's commercial farm experience ▪ All land uses proposed ▪ Production information and products to be sold ▪ Crops to be grown and acreage ▪ Livestock to be raised and acreage ▪ Use of existing structures ▪ Need for additional structures ▪ Description of markets ▪ Personnel information ▪ Relationship of APR parcel to other land owned or leased by the potential purchaser ▪ A farmer must include the total acreage of the current farming operation and the number of years in business ▪ A beginning farmer must include other relevant professional experience, education and training, AND a financial plan ▪ A nonprofit corporation must submit a farm business plan that has been written by the farmer or beginning farmer and also provide corporation Articles of Incorporation.

ASSIGNMENT CONSIDERATIONS (OPAV & ROFR): CHECKLIST & TIMELINE

The owner has not withdrawn their offer to sell.
The potential assignee has complied with the terms of a request for statements of interest.
<p>The potential assignee has satisfied the discretionary waiver criteria:</p> <ul style="list-style-type: none"> ▪ The potential purchaser is a farmer, beginning farmer, or nonprofit corporation organized for the purposes of leasing land to farmers or beginning farmers. ▪ The potential purchaser submits a complete, viable and achievable farm business plan covering a 5-year period. ▪ The potential purchaser has no prior record of a violation of the terms of the APR agreement.
If there is more than one potential assignee the owner shall select the potential assignee.

WAIVER WORKSHEETS

Resume: Farmer CHECKLIST

- Name
- Address
- Telephone Number
- Email
- Describe previous farm ownership or operation
- Size of farming operation
 - Years in Business
 - Acreage
 - Income

Resume: Beginning Farmer CHECKLIST

- Name
- Address
- Telephone Number
- Email
- Describe/List Relevant Degrees, Courses, Workshops, Education, Training
- Financial Plan:
 - a net worth statement
 - an estimate of start-up costs
 - an estimate of production costs
 - gross sales and net farm income
 - income and expense projections for at least three years

Farm Plan Summary CHECKLIST

- five (5) year period
- identification of all land uses on the Farm
- crops to be grown
- acreage for each crop
- livestock to be raised
- pasture acreage
- use of existing structures *(if applicable)*
- need for additional structures *(if applicable)*
- timeline for implementation of the plan
- a map or diagram identifying each land use proposed for the Farm
- market for products
- farm personnel

Farm Business Plan CHECKLIST

- Purchaser Name
 - Mailing Address
 - Home/Mobile Phone
 - Email
 - Legal Structure: Sole Proprietor, Corporation, Partnership, LLC, Other
 - Farm Operation Name and Address
1. Describe your commercial farming experience (as employee, manager or owner). Include name and location of each farm, your title, main responsibilities and number of years at each property.
 2. Provide a description of your short- and long-term goals for the APR parcel. What steps do you need to take to get there?
 3. List the agricultural activities you are proposing for the first five-year period on the APR Parcel. Please provide acres for each crop and yield estimates. For livestock operations please provide type and number of livestock and product projections (example: lbs. of milk or cheese). If the land will be leased to another grower, please provide the grower's name and contact information.
 4. If you currently own or lease other farmland, please describe the operation in as much detail as possible (acres, crops, number of animals, etc.). Describe how the APR Parcel will be used in conjunction with your existing farm business.
 5. Describe how the products grown/produced on the APR Parcel will be marketed (ex. farmstand onsite, farmstand at another location owned by your business, wholesale, farmers' markets, CSA, PYO, etc.). For each outlet provide the estimated percentage and details if possible (ex. specific farmers' markets, restaurants, supermarkets, etc.).
 6. How many people will earn a full time income off the APR Parcel within the first five years?
 7. How many people will be employed part time on the farm?
 8. Provide the name of the proposed farm manager(s) and describe his/her role. Also provide the farm manager's past agricultural experience.
 9. Please list all of the existing structures on the APR and their proposed uses:
 10. List the types of capital improvements (such as new buildings, wells, irrigation, fencing) that you anticipate making (with MDAR approval) on the APR Parcel in the first five years of your ownership of the APR.
 11. What type of agricultural equipment do you possess or intend to acquire to support the needs of your operation?
 12. Do you anticipate seeking approval for a non-agricultural activity or use within the first 5 years of ownership? If so, please describe.
 13. What type of metrics will you use to gauge the success of your business? Examples might be an % increase in sales by year 3 or # of people visiting the farm in 1st year.

WAIVER WORKSHEETS

Notifying MDAR in Writing SAMPLE LETTER CHECKLIST

Proposed Sale or Conveyance of an APR Parcel. If an APR Parcel is subject to a Right of First Refusal or Option to Purchase Real Estate at Fair Market Agricultural Value, and the Owner receives an offer to purchase, the Owner will notify the Department in writing to request a Waiver. The request should be in form of a letter and include the following information:

- Sender's Name
- Sender's Address
- Owner's Name
- Owner's Address
- Property Name
- Property Address

- Property Description:
 - APR acres
 - Non-APR acres
 - Woodlands
 - Building structures
 - Appraised value of APR property
 - Appraised value of non-APR property
 - Explanation of the purchase price if 20% above FMAV or FMAV
- Notification of intent to sell and at a minimum, include copies of the following:
 - The offer to purchase
 - Purchase and sale agreement and amendments

- Any appraisal prepared for proposed sale
- Any appraisal prepared for sale at which Owner acquired the APR property
- Buyer information: farmer resume, businessplan, financial plan
- A request for a waiver from MDAR
- Other relevant documents pertaining to the proposed sale.
- Additional documents specified in your APR agreement such as:
 - Current ownership deed
 - FMAV and any related appraisals
 - FMAV as determined by inflation rate calculation described in the APR agreement

