

# How to Purchase Land Protected by an APR

Taylor Arsenault, MDAR

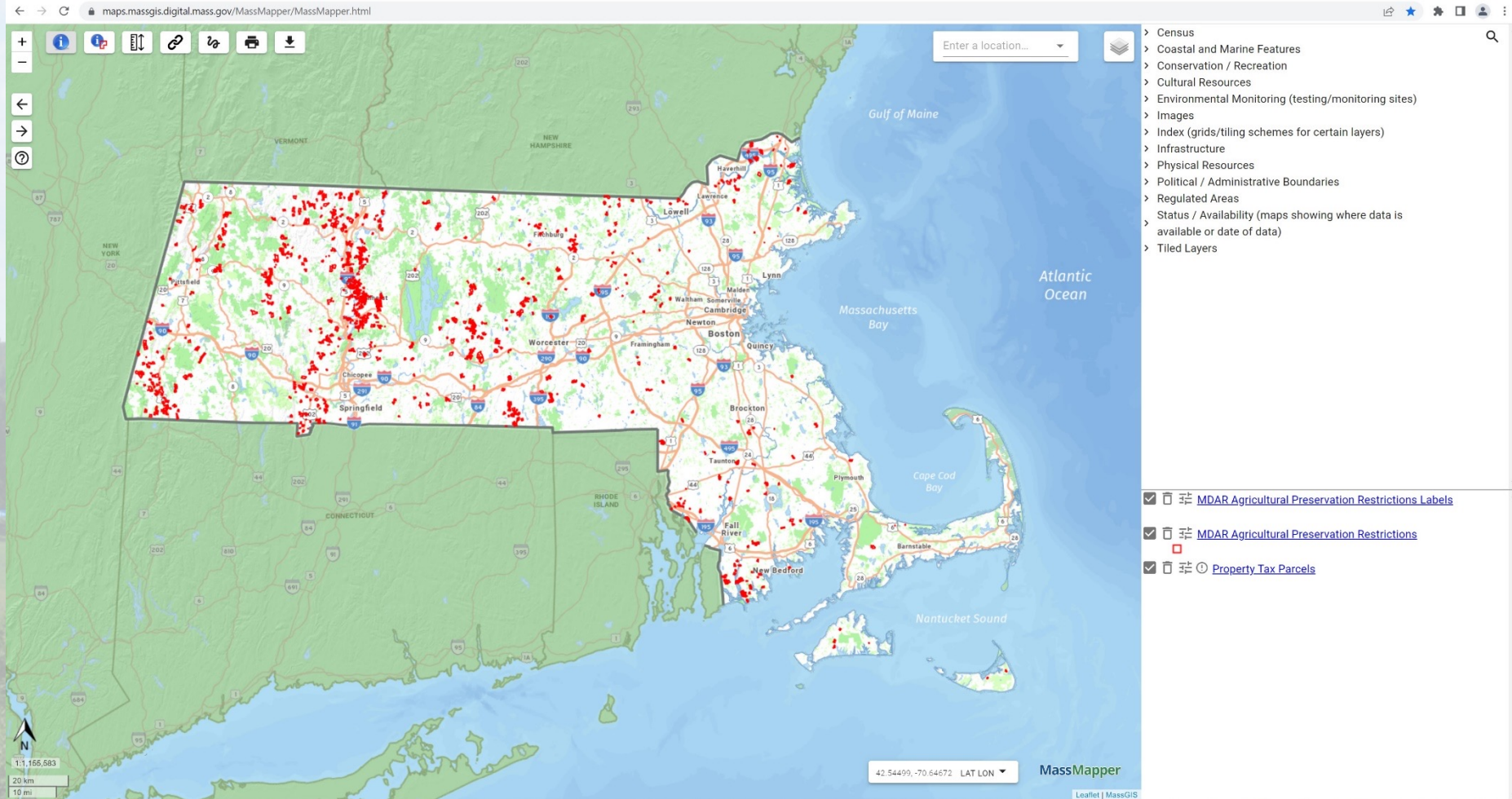
APR Transfer Coordinator

617-655-3870

[Taylor.Arsenault@mass.gov](mailto:Taylor.Arsenault@mass.gov)



# Where are the 970 APR's?



<https://maps.massgis.digital.mass.gov/MassMapper/MassMapper.html>



## An Evolving History

- 1) 1981 to 1985- APR's do not have transfer requirements
  - Can be sold to anyone for any price
  - MDAR has no jurisdiction over sale

- 2) 1986 to first half of 1994- APR's include a **Right of First Refusal (ROFR)**

- MDAR has right to purchase (and assign)
- No limit on price

- 3) Second half of 1994 to Present-APR's include an **Option to Purchase at Ag. Value (OPAV)**

- MDAR has right to purchase (and assign)
- Sold at Agricultural Value



# Who Can Purchase an APR?

## Farmer

- an individual, corporation, LLC, or partnership that: (a) owns and operates a farm business; or (b) is employed full time on a Farm for a minimum of two years.
- Must submit supporting documentation
- Must submit Farm Business Plan\*

## Beginning Farmer

- an individual or entity who has less than two years of experience managing or owning a Farm.
- Must submit Farm Business Plan
- Must also submit Financial Plan



# What Scenarios Are Exempt from Process?

- In-Family Transfers  
(Check APR Document)
- Transfer by Will
- Transfer from one Partner to another



# How Long Does it Take to Review?

Check the APR Document for Timeline!

Once required documents submitted, up to:

**ROFR**

16 Days

60 Days

**OPAV**

16 Days

60 Days

120 Days



## Potential Outcomes

Once required documents submitted:

### Waives

- Waiver Document Provided
- Sale Proceeds

### Exercises

- Statements of Interest
- If multiple qualified applicants, seller chooses

### Neither Waives or Exercises

- Sale Proceeds

- Seller can withdraw at any point up to exercising
- Seller can appeal to ALPC

## Transfer Statistics

- 42-Year Program
- 12 Exercised (~1%)
- 4 Assigned
- Sometimes there are no bids, sometimes there are title issues, timing issues, etc.





## Resources Available

- Copy of APR Document
- Land Survey
- Appraisal Guidelines
- Farm Business Plan Template
- CPI (Inflation) Formula Guidance



## 330 CMR 22: APR Program

- Govern all APR's
- Outlines Transfer Procedures
- APR Document Takes Precedent

330 CMR: DEPARTMENT OF AGRICULTURAL RESOURCES

330 CMR 22.00: AGRICULTURAL PRESERVATION RESTRICTION PROGRAM

Section

22.01: Scope and Purpose  
22.02: Definitions  
22.03: Composition and Meetings of the Agricultural Lands Preservation Committee  
22.04: Eligibility of Agricultural Preservation Restriction Program  
22.05: Application Procedures  
22.06: Agricultural Preservation Restriction Program Application Processing and Closing Procedures  
22.07: Criteria Applicable in Evaluation of Projects  
22.08: Agricultural Preservation Restriction  
22.09: Departmental Approvals  
22.10: Transfer or Sale of an APR Parcel  
22.11: Agricultural Preservation Restriction Parcel Violations  
22.12: Release of an Agricultural Preservation Restriction  
22.13: Adjudicatory Hearings  
22.14: Policies and Guidelines

22.01: Scope and Purpose

The scope of 330 CMR 22.00 is to implement the terms of M.G.L. c. 20, §§ 23 through 26; and M.G.L. c. 184, §§ 31 and 32. The purpose of 330 CMR 22.00 is to provide guidance and clarification for present and future APR Parcel Owners regarding their rights and responsibilities and the Department's responsibilities under St. 1977, c. 780, in conjunction with the direction and guidance provided in Department policy statements, guidelines, and other informational sources referenced in 330 CMR 22.14; to encourage sound soil management practices in accordance with generally accepted agricultural practices; and to regulate activities and uses that may be detrimental to the retention of the land for agricultural use in perpetuity.

22.02: Definitions

As used in 330 CMR 22.00 the following words shall have the following meanings, unless the applicable Agricultural Preservation Restriction provides a different definition, in which case the definition in the Agricultural Preservation Restriction controls:

Adjudicatory Hearing means an informal hearing under M.G.L. c. 30A where parties may present evidence on issues of fact, and argument on issues of law and fact prior to the ALPC issuing a written final decision.

Agricultural Lands Preservation Committee (ALPC) means a committee in the Department of Agricultural Resources whose membership, powers, duties, and statutory grant of authority are set forth in M.G.L. c. 20, §§ 23 and 24.

Agricultural Preservation Restriction (APR) means a perpetual restriction to retain land or water areas predominately in their agricultural, farming, or forest use, and forbids or limits certain property development rights and uses.

Agriculture means the uses of land enumerated in M.G.L. c. 61A, §§ 1 and 2.

Applicant means the record owner(s) of land who submit an Application for a Project.





# Taylor Arsenault - MDAR

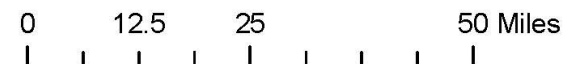
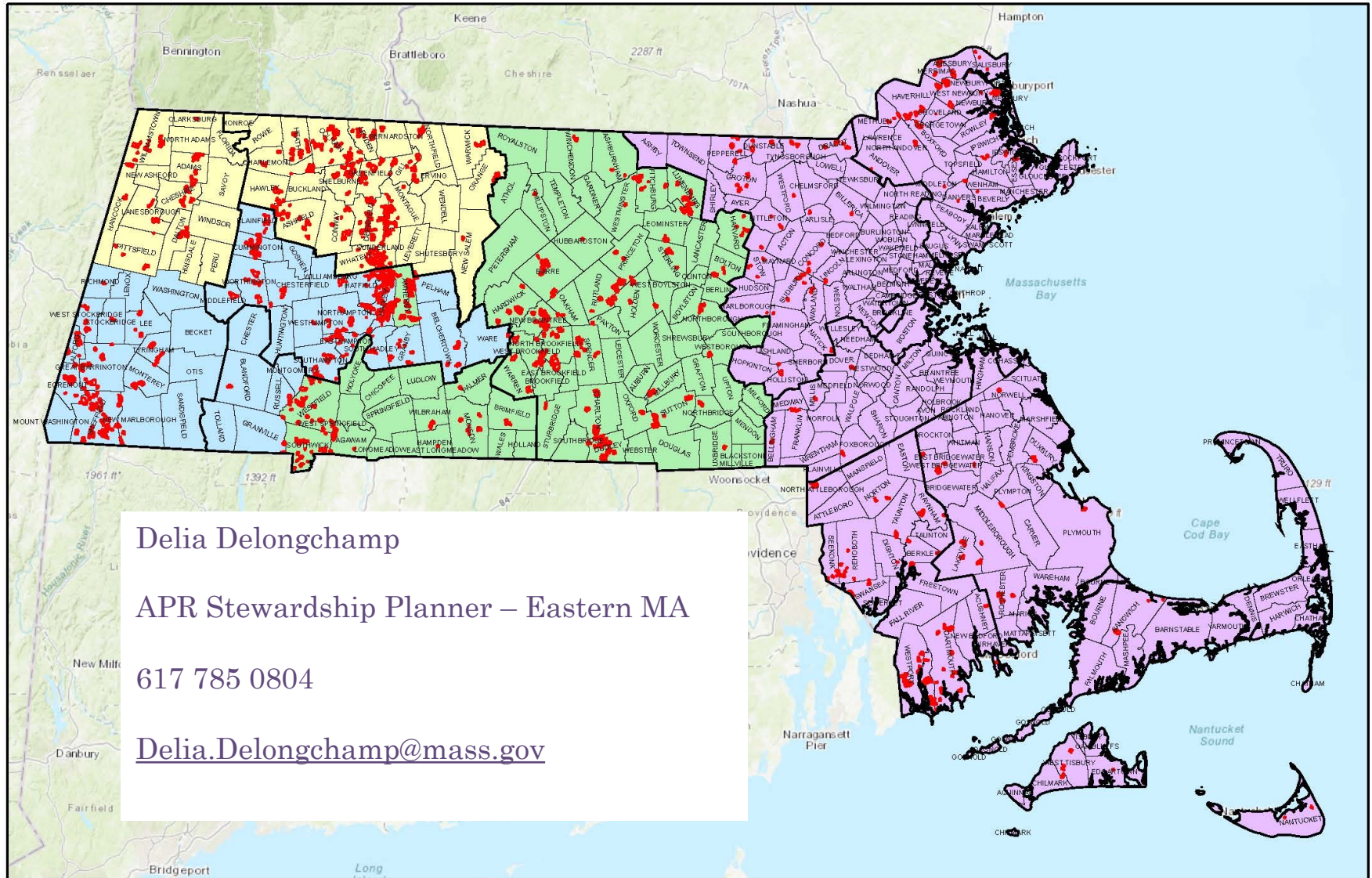
APR Transfer Coordinator

617-655-3870

[Taylor.Arsenault@mass.gov](mailto:Taylor.Arsenault@mass.gov)



## Stewardship Regions





# APR Stewardship Program & Technical Support

- Creating Baseline Documentation Reports
- Conducting Monitoring Visits – Federally funded (50) vs. non-Federal (150)
- Reviewing permitting for Department Approvals
- Technical Assistance for Resource Issues
- Compliance/Enforcement of APR
- Succession/Change in Ownership
- Landowner Relations





# Agricultural Preservation Restrictions – Uses



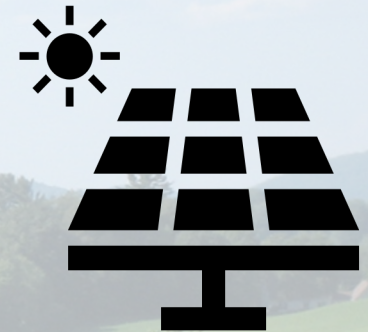
- Productive, commercial agriculture 61A
- APR document vintages vary; ask APR Stew for doc & interpretation
- “Normal ag practices” ie. farm road maintenance, excavation above frost line, quiet enjoyment (passive rec/no income), forestry – Permissible
- Many APRs allow for temporary structures, utilities for ag purposes (wells, easements)
- Septic permissible w/approval, limited to ag labor or existing residential
- Everything else = Certificate of Approval





# Department Approvals (Permits) - Types

- Ag Structures/Construction Projects
- Alt. Energy Projects
- Excavation/Regrading/Utilities
- Labor Housing/Dwellings
- Subdivision
- Special Permits for non-ag





## Dept. Approvals - COA Process

- Landowner applies
- Site visit by Stewardship
- Monthly internal review by APR; recommendations made to Legal and Commissioner's office
- COA document issued to landowner, within 90 days
- Follow-up for certain conditions or benchmarks within two year period



# Agricultural Preservation Restrictions – Guidelines

## Policies and Guidelines

---

- [APR Program Guide](#)
- [APR Regulations - 330 CMR 22.00](#)
- [APR Renewable Energy Policy](#)
- [APR Special Permit Policy](#)
- [APR Dwelling guidelines](#)
- [APR Local Matching Funds](#)
- [APR Over the Cap Policy](#)
- [Certificate of Approval Application](#)
- [APR Requests for a Certificate of Approval to Subdivide Land](#)
- [APR Change of Ownership: Sales, Transfers, OPAVs, ROFRs, Waivers](#)
- [Template for Farm Business Plan](#)
- [Hemp and Marijuana Production on APRs](#)



# What requires a Special Permit?

- Commercial, ancillary to primary operation
- 5-year term; similar COA process
- Examples:
  - Use of existing structure for yoga space, birthday parties
  - Outdoor weddings, concerts, movie set location
  - Parking/storage of materials





# Criteria for Approval of a Special Permit

- APR in commercial ag production
- Proposed activity “Shall not defeat nor derogate from the purposes”;
- No new construction/structures, no soil removal, no 3<sup>rd</sup> party contracts that do not include recission clauses





# Non-ag activities (Special Permits)

- Revising Special Permit Guidelines now; opportunity for feedback March '23
- Current guidelines here: <https://www.mass.gov/doc/apr-special-permit-policy/download>
- Direction is to provide simplified process for APR landowners and clarity around what requires a Special Permit vs. what is considered agritourism or other agriculturally-adjacent income opportunities





# Technical Resource Support for APR Landowners

- Boundary survey cost-sharing
- Intersections with DAR Programs **Composting Registration, Ag Energy, Food Safety, Business Training, Markets, and Cannabis**
- Grant opportunities APR landowners and leasing farmers
- NRCS partnerships provide soil testing, conservation planning, add'l funding (hoop houses, wells, etc.)
- Advocacy with munis, ConComs, other conservation entities





## On the horizon



- Farmland Action Plan – pending release
- Listening Sessions statewide spring '23
- Land Licensing Opportunities
- Succession School





# APR Stewardship Staff

Agricultural Preservation Restriction Program  
Massachusetts Department of Agricultural Resources  
241 Turnpike Road, Southborough, MA. 01772  
[www.mass.gov/agr](http://www.mass.gov/agr)

Delia Delongchamp, Eastern MA Stewardship Coordinator  
(617) 785 0804 [delia.delongchamp@mass.gov](mailto:delia.delongchamp@mass.gov)

Taylor Arsenault, Transfer & Survey Coordinator  
(617) 626 1348 [Taylor.Arsenault@mass.gov](mailto:Taylor.Arsenault@mass.gov)

Tina Smith, Hampshire County

Tyler Maikath, Worcester/Hamden County

Nathan Moyer, Berkshires

Julie Weiss, SARA Grant Coordinator