



Montana Association of Counties
 2715 Skyway Drive
 Helena, MT 59602-1213
 (p) 406.449.4360 | (f) 406.442.5238
maco@mtcounties.org |
<http://www.mtcounties.org>

RESOLUTION 2020-06

DEFINE SMALL OR UTILITY SCALE SOLAR FARM

It is the intent of the Montana Association of Counties to enable legislation pertaining to solar farms, properly defining a “small” or “utility scale” solar farm and clarifying the taxable classification as Class 13 property.

WHEREAS, counties are seeing increased requests for “utility scale” or “small” solar farm siting; and

WHEREAS, 16 USC 796 (17) defines "small power production facility" as a facility which is an eligible solar, wind, waste, or geothermal facility, or a facility which

(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, geothermal resources, or any combination thereof; and

(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts; and

WHEREAS, under MCA 15-6-156 (3)(c) attempts to define in accordance with 16 USC and provides an exclusion from being Class 13 taxable property for qualifying small power production facilities as defined in 16 USC 796 (17); and

WHEREAS, the exemption from Class 13 assessment leads to confusion on how a facility will be taxed and in what classification; and

WHEREAS, building of multiple “small power production facility” solar farms to avoid tax consequences should be prohibited which the exemption promotes; and

WHEREAS, counties are being asked to assess the impacts of these projects on a county and consider tax abatements requested by developers with vague information about the classification of the property and the eligibility under the definition of “small power production facility;” and

WHEREAS, the federal guidance in CFR 292.204 (2)(i) facilities are considered to be located at the same site as the facility for which qualification is sought if they are located within one mile of the facility for which qualification is sought.

NOW, THEREFORE BE IT RESOLVED that the Montana Association of Counties will seek to establish legislation to clarify the definition of a “small power production facility” and specify that said facilities shall be classified taxable as Class 13 property.

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| SPONSOR: | BEAVERHEAD COUNTY |
| RECOMMENDATION: | DO PASS AS AMENDED |
| REFERRED TO: | MACo TAX, BUDGET & FINANCE COMMITTEE |
| ADOPTED: | ANNUAL CONFERENCE – OCTOBER 1, 2020 |