

STATE OF NEW YORK

1793

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the executive law, in relation to the design of uniform standards and conditions relating to the construction and operation of major renewable energy facilities and the review of applications for permits to develop such facilities; and requires the office of renewable energy siting to establish or amend rules and regulations pertaining to renewable energy siting facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (c) of subdivision 3 of section 94-c of the executive law, as added by section 4 of part JJJ of chapter 58 of the laws of 2020, is amended to read as follows:

2 (c) The uniform standards and conditions established pursuant to this
3 section shall be designed to avoid or minimize, to the maximum extent
4 practicable, any potential significant adverse environmental impacts
5 and, to the maximum extent practicable, avoid, minimize, and mitigate
6 agricultural impacts to active agricultural lands related to the siting,
7 design, construction and operation of a major renewable energy facility.
8 Such uniform standards and conditions shall apply to those environmental
9 impacts the office determines are common to each type of major renewable
10 energy facility.

11 § 2. Paragraphs (e), (f), (g), (h), and (i) of subdivision 3 of
12 section 94-c of the executive law are relettered paragraphs (f), (g),
13 (h), (i), and (j) and a new paragraph (e) is added to read as follows:

14 (e) In its review of an application for a permit to develop a major
15 renewable energy facility, the office, in consultation with the depart-
16 ment of agriculture and markets shall ensure that a critical mass of
17 farmland within the designated region is not threatened, ensuring that
18 no more than five percent of prime soils within a regional economic
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 development council region shall have solar developed and ensure that
2 solar development shall not greatly hinder the amount of farmland within
3 New York state and/or be a potential threat to New York's food security.

4 § 3. Section 94-c of the executive law is amended by adding a new
5 subdivision 9 to read as follows:

6 9. Rules and regulations. The office shall establish and/or amend the
7 rules and regulations pertaining to such office to include the follow-
8 ing:

9 (a) the definition of prime farmland as defined in part 622.04 of the
10 USDA handbook and the definitions of unique farmland, specific charac-
11 teristics of unique farmland, additional farmland of statewide impor-
12 tance, and additional farmland of local importance as such terms are
13 defined in 7 CFR § 657.5.

14 (b)(i) preapplication procedures which require applicants to:

15 (1) submit a report delineating the impacts to prime agricultural land
16 and prime soils, unique farmland and farmland of statewide and local
17 importance, including soil classifications as established by the natural
18 resources conservation service;

19 (2) submit a cumulative impact study as to how the use of farmland for
20 solar siting will impact the regional food economy and regional overall
21 farmland protection plan; and

22 (3) ensure that a critical mass of farmland within the designated
23 region is not threatened, ensuring that no more than five percent of
24 prime soils are being sited within a regional economic development coun-
25 cil region; and

26 (ii) preference to be given to sites for solar development that are on
27 brownfields, landfills, parking lots, rooftops, gravel pits and other
28 areas where disturbance to local ecosystems is minimized. Such sites
29 shall be granted expedited approval.

30 (c) application procedures for major renewable energy facility siting
31 permits. Each application for such permit shall require:

32 (i) the submission of a cumulative impact statement within the study
33 area which includes the following criteria:

34 (1) categories based on solar array size, specifying the array capaci-
35 ty and how much power or electricity is expected to be generated,
36 on-site or associated electric load, and the land use footprint, includ-
37 ing the acreage of land underlying the array;

38 (2) customer type by identifying the end-use entity consuming the
39 electricity or receiving the electric credits generated by the project
40 and how such end-user is classified in a utilities' established electric
41 rate structures for different customer classes, including residential,
42 commercial, industrial, agricultural or low-income;

43 (3) categories based on solar array location, specifying whether solar
44 arrays are roof-mounted, designating preferred sites for solar develop-
45 ment and ineligible sites;

46 (4) categories based on solar array design, including specifying
47 whether such solar array utilizes dual use or agrivoltaics; and

48 (ii) for major renewable energy facilities sited on prime soils or
49 farmlands, the applicant to submit decommissioning plans for arrays on
50 agricultural land and decommissioning bonds for commercial-scale
51 projects. Such applications shall require the applicant to:

52 (1) include a decommissioning plan in the application;

53 (2) show substantial evidence that all structures and materials will
54 be removed upon decommissioning of such facility and to ensure that
55 soils will be capable of agricultural production; and

1 (3) obtain decommissioning surety bonds or another form of insurance
2 to secure all or a part of decommissioning costs required at the conclu-
3 sion of the lease.

4 (d) requiring the submission of a farmland conservation fee of one
5 percent of the price per acre of prime soil or prime farmland which
6 solar is developed on. Such farmland conservation fee shall be deposited
7 in the farmland preservation fund subaccount of the environmental
8 protection fund.

9 (e) farmland protection and consideration of local economies. The
10 office shall take into account the regional impacts, based on the
11 regional economic development council region, on farmland preservation,
12 local food supply chains, and statewide food security; provided that the
13 office shall ensure that a critical mass of farmland within the desig-
14 nated region is not threatened and shall ensure that no more than five
15 percent of prime soils within a regional economic development council
16 region may be developed for solar projects. The office shall also
17 require the permittee to coordinate with county-level governments to
18 ensure no more than fifteen percent of the land mass by square mile of
19 any county shall be developed for solar energy development or no more
20 land mass than will significantly negatively impact the local economy,
21 whichever is smaller.

22 § 4. This act shall take effect immediately; provided, however, that
23 the amendments to section 94-c of the executive law made by sections
24 one, two and three of this act shall not affect the repeal of such
25 section and shall be deemed repealed therewith.