

## RESRFP21-1 Appendix 2

### Permitting Plan Requirements and Guidelines

As stated in Sections 4.1 and 8.3.4 of the RFP, all Proposers submitting a Step Two Bid Proposal for projects under development (i.e., not in operation) must submit as part of its Bid Proposal package a Permitting Plan appropriate for the renewable energy technology and size proposed.

In addition to the requirements outlined in Section 8.3.4 of the RFP, the Permitting Plan should detail, to the greatest degree possible, the expected impacts the proposed footprint of the project will have on the resources and other items described in this Appendix. A Permitting Plan that can reasonably respond to the guidelines and considerations in this Appendix at a high quality will be eligible to be awarded more points by the TEP.

The Permitting Plan should describe as comprehensively as possible the mitigation steps the developer has or will take to avoid, minimize, remediate, and offset impacts to the resources at each of the project development stages. The mitigation hierarchy should be an organizing principle in the development of mitigation plans for renewable energy projects. It involves a sequence of actions that anticipate and mitigate negative impacts on biodiversity and ecosystem services (e.g., agriculture, forestry, water quality).

#### **Mitigation Terminology**

For the purposes of this RFP and associated proposal documents, mitigation terms are defined as:

- (1) Mitigation Hierarchy – The sequential tiered approach for the four mitigation actions -- avoidance, minimization, remediation, and offsetting.
- (2) Avoidance – Actions to prevent impacts altogether (e.g., siting the project so that no resources or services of concern are affected).
- (3) Minimization – If resources or services are affected in any way, actions to reduce the impacts during all phases of the project. (e.g., planting native grasses and wildflowers in low maintenance areas for better erosion control, pesticide avoidance, stormwater infiltration, and reduction of long-term maintenance costs and emissions).
- (4) Remediation – Where there are unavoidable impacts, actions to restore, rehabilitate, or enhance the resources or services that have been affected within the footprint of the project site. (e.g., habitat or land restoration within the project boundary).
- (5) Offsetting – When significant residual impacts are expected to remain, compensate elsewhere (e.g., restoration projects of comparable resources or services, host-community improvement projects targeting similar resources).

#### **Regulatory Considerations**

While the majority of this Appendix is related to environmental and permitting considerations, the Permitting Plan is required to detail the appropriate regulatory process that the Bid Facility intends to utilize to seek necessary permits. Proposers should reference Section 8.3.4 of RESRFP21-1 to ensure that the Permitting Plan adequately addresses the path that the project intends to take to be fully permitted at the state and/or local level per the Minimum Threshold Requirements.

The State Environmental Quality Review (SEQR) is the process through which all projects less than 25 megawatts will need to proceed with to be environmentally permitted. The Article 10 siting process, a New York State law governing siting of major electric generating facilities sized 25 MW and larger,

outlines the range of environmental issues that are of concern to the state and must be addressed in the pre-application phase of a large-scale energy projects. The Article 10 law has been superseded by the [new 94-c siting process](#), which has been promulgated by the Office of Renewable Energy Siting (ORES) within the New York State Department of State.

On September 16, 2020, ORES issued draft regulations and draft uniform standards and conditions that were subject to the State Administrative Procedure Act (SAPA). ORES accepted public comments on the draft regulations from September 16, 2020 until December 7, 2020 via public hearings and oral/written comments, and [adopted the new regulations](#) on March 3, 2021.

The ORES Standard Regulations and Permit Conditions cover many environmental impacts expected to be addressed by the ORES Uniform Standard Conditions (USCs) which include:

- impacts on wildlife and wildlife habitat, particularly threatened and endangered species;
- coastal area land, water, or natural resources;
- forests, woodlands, soils of importance;
- water bodies such as wetlands and streams; and
- agricultural impacts to active agriculture and/or productive soils.

Proposers intending to advance a Bid Facility through ORES should fully understand the adopted regulations and uniform standards and conditions and should reference the regulations while completing the Permitting Plan required for all Step Two Bid Proposals.

If located in proximity to these resources, special considerations should be taken by Proposers to protect the other environmental and agricultural services these resources provide, such as flood management, erosion control, protection of water quality, and carbon storage. Alternative and/or additional environmental and engineering review may be needed for projects sited on landfills, remediated brownfields, water treatment facilities, or commercial rooftops and canopies of parking lots because of the lower environmental impact.

### **Environmental & Agricultural Considerations**

The remainder of this Appendix provides a brief, non-exhaustive overview of the environmental and agricultural considerations that should be addressed in a comprehensive Permitting Plan, including:

- 1) direct conflict with or proximity to preserved land and open space;
- 2) degradation of wildlife habitat and adverse impacts on wildlife;
- 3) negative impacts on ecosystems such as forests, wetlands, and grasslands; and
- 4) impacts on agricultural production and soil quality.

Proposers are strongly encouraged to consult with the Department of Environmental Conservation (DEC), the Department of Agriculture and Markets (AGM), and, if applicable the Office of Renewable Energy Siting prior to submitting a Step Two Bid Proposal and Permitting Plan in order to gain a full understanding of the project site impacts. Additionally, Proposers submitting Step Two Bid Proposals for proposed facilities sited in New York State will be required to provide, separately or as part of the Permitting Plan package, the following permitting due-diligence studies:

- For Bid Facilities proceeding through the Office of Renewable Energy Siting, the Proposer must substantiate as part of the Step Two Bid Proposal that the following studies have been completed for the Bid Facility site:

- Wildlife Site Characterization Report<sup>1</sup>
  - Draft Desktop Wetlands and Water Resources Delineation<sup>2</sup>
  - Phase IA Archeological Desktop Survey<sup>3</sup>
- For Bid Facilities proceeding through the [New York State Environmental Quality Review Act \(SEQRA\)](#)<sup>4</sup>, Proposers must substantiate as part of the Step Two Bid Proposal that a 1) Full Environmental Assessment Form (FEAF)<sup>5</sup> has been completed and is prepared for or has been submitted to the applicable lead agency and applicable NYS DEC Division of Environmental Permits office, or that 2) a finding of no jurisdiction has been provided by NYS DEC following the submission and review of the FEAF for the Bid Facility.
  - For Bid Facilities in external control areas, the Proposer will be required to substantiate that an equivalent level of pre-development due diligence has been conducted for the Bid Facility site prior to the submission of a Step Two Bid Proposal. The documentation to be provided to substantiate the Permitting Minimum Threshold Requirements must be outlined by the Proposer in the Step One Eligibility Application such that NYSERDA can confirm or modify any proposed equivalent documentation prior to or as part of the Notice of Qualification.

Proposers are encouraged to conduct a thorough review of available environmental and agricultural resources, and work with other informed entities and appropriate agencies with potential jurisdiction to obtain the most current and applicable information related to their Bid Facility<sup>6</sup>. State and local agencies can also designate certain geographic areas as important (e.g. [Critical Environmental Areas](#)) and require that any development within these areas evaluate the impact under SEQRA, which should be included in the permitting plan and accounted for by Proposers when applicable.

### **Wildlife and Wildlife Habitat**

Large-scale renewable projects can require substantial amounts of land and may impact pre-existing habitat for [threatened or endangered species](#) that reside in waterways, wetlands, grasslands, and forested areas. Common ecological concerns related to major large-scale renewable construction projects include loss or change of habitat for wildlife (e.g., impacting foraging, wintering, migrating, and nesting wildlife species, or any changes in vegetative cover types).

Any land clearing of habitat or possible fragmentation of wildlife corridors could have a negative impact on the vitality and long-term population of these species and should be evaluated as part of the site selection process. For example, wildlife sensitive to construction and operation (e.g., tree clearing, noise

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<sup>1</sup> [Office of Renewable Energy Siting Regulations and Uniform Standards and Conditions](#) §900-1.3 Pre-application procedures (g) NYS threatened or endangered species

<sup>2</sup> [Office of Renewable Energy Siting Regulations and Uniform Standards and Conditions](#) §900-1.3 Pre-application procedures (e) Wetland delineation and (f) Water Resources and Aquatic Ecology

<sup>3</sup> [New York State Historic Preservation Office, Environmental Review Archeological Surveys](#)

<sup>4</sup> [New York State Environmental Quality Review Act \(SEQR\)](#) and [SEQR Handbook](#), Fourth Edition, 2020

<sup>5</sup> [State Environmental Quality Review Act \(SEQR\) Forms](#), Full Environmental Assessment Form (FEAF) (Appendix A to 6 NYCRR 617.20 - revised January 1, 2019)

<sup>6</sup> Informational resources include the [New York State Solar Guidebook](#), the [State Environmental Quality Review \(SEQR\) for Solar](#).

levels, and presence of prey) may avoid newly created forest edges to reduce the risk for intra- and inter-species competition, particularly for forest-breeding birds.

Sensitive wildlife face numerous other threats, including climate change and disease, which can also affect available habitat and food, potentially leading to shifts in geographic range (e.g., shifts in migratory pathways and timing) and survivorship, which can compound risks and uncertainty around renewable energy project impacts. The design, construction and maintenance of large-scale renewables projects should take such changes into account.

Large-scale renewable projects have the potential to adversely affect the habitat and landscape upon which endangered or threatened species rely by removing or fragmenting habitat. Additionally, increased human activity associated with project development and operations may disturb/displace sensitive species or affect ecological interactions (e.g., narrowing feeding grounds creating greater competition).

The relative proximity of large-scale renewable projects to certain landscape features and/or ecological resources can also increase the risk to endangered or threatened species. Certain habitat or landscape features may funnel or concentrate wildlife during migration, feeding, breeding, wintering, or roosting activities; these habitats/features include water bodies, grasslands, core forest blocks, high elevation mountaintops, prominent ridgelines, bat hibernaculum, etc.

Proposers should address the Bid Facility's impacts on wildlife and wildlife habitats as comprehensively as possible, including via submission of a Wildlife Site Characterization Report at the time of the Step Two Bid Proposal. For Proposers submitting a Bid Facility advancing through ORES, see ORES Regulations §900-1.3 Pre-application procedures, (g) NYS threatened or endangered species for additional information on the scope of a comprehensive Wildlife Site Characterization Report.

### **Birds and Bats [*Wind Projects Only*]**

Despite improvements in the design of turbines to reduce impacts, The American Wind Wildlife Institute (AWWI) states that, "potential for biologically significant impacts to wildlife continues to be a source of concern as populations of many species overlapping with proposed wind energy development are experiencing long-term declines as a result of habitat loss and fragmentation, disease, nonnative invasive species, and increased mortality from numerous other activities."

Proposers of large-scale wind Bid Facilities should refer to the [NYS Birds and Bats Impacts and Regulations Guide](#) for an overview of state-specific bird and bat issues and references to important planning resources and tools, and to the [US FWS Land-Based Wind Energy Guidelines](#) for general guidelines on preliminary site evaluation, site characterization, and field studies and impact prediction that should be included to the greatest degree possible in the Permitting Plan.

Assessments of turbine-related impacts on bats and birds has been limited due to a lack of robust and comparable data across project sites. Proposers are encouraged to employ guidance on ways to standardize both studies and data, and conduct thorough and meaningful studies, such as the American Wind and Wildlife Institute's (AWWI) [A Summary of Bat Fatality in Nationwide Database \(2018\)](#), NYSERDA's [Wind Energy Guidebook \(2018\)](#), and DEC's [Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects](#) (2016) to reduce uncertainty and enhance statewide understanding of environmental impacts on bird and bat populations.

Proposers seeking to comprehensively address this impact should address the need based on the project site and, if applicable, demonstrate their plans to create an Environmental Evaluation and Monitoring Plan for wildlife and wildlife habitat, including:

1. Compile existing and available updated information on wildlife resources at the Project site and surrounding area and applicable regulations and requirements.
2. Consult with agencies and organizations that have relevant scientific information to further understand wildlife issues and receive guidance on appropriate tools and approaches to avoid, minimize, remediate or offset impacts on wildlife and wildlife habitat.
3. Conduct pre-construction surveys to inform future actions.
4. Monitor for impacts on wildlife and wildlife habitat during construction and operation to inform later mitigation actions.

Proposers advancing a Bid Facility through ORES should reference ORES Regulations §900-6.4 Facility Construction and Maintenance: (o) Threatened and Endangered Species to understand the construction and operating requirements regarding bird and bat Impacts.

### **Forests**

Forests provide vital habitat for wildlife. Some project development activities require the removal of substantial blocks of trees, and project sites can be directly adjacent to forests and woodlands, both of which can have adverse impacts on wildlife. For instance, birds sensitive to indirect impacts (e.g., tree clearing, noise levels, and presence of prey) may avoid forest edges, increasing risk for intra- and inter-species competition, particularly for forest-breeding birds. Forest ecosystems also have value as habitat for other species and as carbon sinks.

Bat acoustic activity is higher in forest gaps and edges than in interior forest. Solar project siting may increase the number of forest gaps and amount of forest edge, and it is hypothesized that these changes result in increased bat activity and subsequent higher fatalities.<sup>7</sup> There has been little evaluation of this hypothesis.

Proposers should include in the Permitting Plan an assessment of any anticipated tree clearing in woodlands and forests for the construction or operation of the facility, and/or whether the project site is directly adjacent to forests or woodlands. Proposers should describe the general state and the successional status of any forests that may be impacted by the construction of the Bid Facility.

### **Grasslands**

Similar to forest-breeding birds, grassland birds are sensitive to landscape-level factors (e.g., available suitable habitat in the surrounding landscape). Grassland habitat has been declining, primarily due to abandonment of agricultural lands or sprawl development, negatively impacting grassland birds. Bats are also known to use grasslands as feeding grounds.

Proposers should include in the Permitting Plan an assessment of any anticipated impacts and planned mitigation strategies on grassland bird habitats.

### **Water Bodies (Wetlands, Streams, Lakes, Coastlines)**

Wetlands and other water bodies offer important habitat for both resident and migratory species. Certain water bodies are protected on the basis of the state's classification system, and landowners and developers must obtain a permit if the project is likely to have any impacts on these resources. For

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<sup>7</sup> *Impacts to Wildlife of Wind Energy Siting and Operation in the United States*, T.D. Allison, et. al. **Issues in Ecology**, Report No. 21, Fall 2019.

instance, wetlands are necessary for flood control, surface and ground water protection, open space and recreation. Areas adjacent to wetlands provide an important buffer and are also important to protect. NYS has [mapped fresh water wetlands](#), and the DEC is in charge of implementation of the [Freshwater Wetland Regulatory Program](#) to protect and preserve these resources.

Proposers should include in the Permitting Plan an assessment of any anticipated impacts and planned mitigation strategies on water bodies. Proposers should address the Bid Facility's impacts on water bodies as comprehensively as possible, including via submission of a draft or complete wetlands delineation report at the time with the Step Two Bid Proposal. See ORES Regulations §900-1.3 Pre-application procedures: (e) Wetland delineation, (f) Water Resources and Aquatic Ecology, and §900-2.14 Exhibit 13: Water Resources and Aquatic Ecology for additional information on the scope of a complete wetlands delineation report.

### **Preserved Land and Open Space**

Protected land is an important environmental resource of concern. Land protected by the public such as forest preserves, wildlife management areas, and parks, or by the private sector through conservation easements, is valuable as natural open space, scenic views, recreational area, historic and cultural significance, and wildlife habitat. The DEC is responsible for management of state-owned lands, and local governments oversee management of local parks and protected land. Private landowners may also protect parcels of land by voluntarily selling or donating certain development rights to a private organization or public agency. Conservation easements provide public benefits such as water quality, scenic views, and farm or ranchland preservation, but allow the owner to retain other rights of ownership.

Proposers whose project sites are in close proximity to or located on these types of protected lands should include in the Permitting Plan how they plan to avoid, minimize, remediate, and offset any impacts on the scenic views, recreational activities, or other services.

### **Agricultural Land and Food Production**

Much of the best agricultural land in New York State is closely tied to the most productive soil resources. These soil resources are in jeopardy of being interrupted for agricultural purposes.

Proposers siting projects in NYS Agricultural Districts should seek to avoid locating projects on or in the NYS Agricultural Land Classified as mineral soil groups 1-4, and consider siting on marginal farm land or farmland that is no longer considered economically viable for production. If any of the types of lands to avoid as listed above are part of the Bid Facility site, Proposers should address in the Permitting Plan how it plans to minimize, remediate or offset potential agricultural impacts.

Proposers should also seek to avoid siting solar projects on land leased for active farming activities, or to explore options to allow for farming activities to continue on a portion of the site. Leased lands can be essential to the economic viability of some farming operations. Making a commitment to implement vegetation management practices consistent with the [New York Soil Health \(NYSH\)](#) initiative and to restore the land to its original state as productive farmland at the end of the project's useful life is also an important way to ensure that, over time, NYS farmland is protected. USDA and NYS maintain maps of both the protected [farmland in agricultural districts](#) and [maps of soil types](#) throughout the state.

Proposers advancing a Bid Facility through ORES should reference ORES Regulations §900-6.4 Facility Construction and Maintenance: “(s) Agricultural Resources” to understand the requirements relating to agricultural protection.

### **Farm and Field Fragmentation and Co-Location of Agricultural Practices**

In many cases, large-scale renewable projects will only take up space on a portion of a farm, which may allow agricultural activities to continue on the remaining land. Careful site selection must consider how to avoid constraints or impacts on on-going and potential future farming activities, including the location of fencing, roads, overhead electrical poles and lines, stormwater management facilities, as well as the ground coverage ratio, interrow spacing of modules, and design of the modules.

In some cases, co-location of agricultural-related activities and large-scale renewable energy generation can occur. However, these activities should be consistent with, and in support of, the existing on-farm agricultural production whenever possible. Solar projects can be designed to allow grazing of certain small livestock amongst the panels, cultivation of shade-tolerant crops or creation of pollinator habitat for honeybees, insects, birds, and other species<sup>8</sup>. Developers in Europe and the US are learning more about the benefits of co-location or "agrivoltaic or agrophotovoltaics" as a way to access ideal sites while minimizing impacts on agricultural production. These considerations should be included in the planning and siting of solar project sites early in the design process if feasible, and thought should be given to how these considerations will be addressed in all project phases including operation. For example, if partnering with a sheep farmer to graze within the solar array, design considerations for corrals, rotational grazing, sheep friendly seed mix, grazing plan and water accessibility would be prudent.

Proposers should include in the Permitting Plan an analysis of the feasibility to produce a crop on the remaining agricultural land with normal agricultural equipment (e.g., tractor, bailer and wagon linked in-line). Areas where the operation of agricultural equipment is inefficient or otherwise limiting shall be considered as an agricultural impact, as these areas are likely to become abandoned from agricultural land use.

Proposers are strongly encouraged to explore the option for co-location of solar panels and farming that results in continued agricultural production within the project site, and/or other productive uses on the site such as sheep grazing and utilizing pollinator friendly planting practices. If applicable, Proposers should describe their planned approach to vegetation management including any planned usage of sheep grazing, establishing and maintaining pollinator habitats, or other co-located agricultural practices. Plans should address these practices throughout the useful life of the project. In addition, Proposers are encouraged to familiarize themselves with relevant sections of the [New York State Solar Guidebook](#), the Department of Agriculture and Markets [Pollinator Habitat Guidelines](#), and other guidance regarding best practices and recommendations for co-location of agricultural practices that may be advanced by NYSERDA, AGM and/or NYSERDA’s Agricultural Technical Working Group (A-TWG).

### **Soil Quality Impacts**

The New York State Department of Agriculture and Markets [Guidelines for Solar Energy Projects- Construction Mitigation for Agricultural Land \(v. 10/18/2019\)](#) (Guidelines, Exhibit E to the RESRFP21-1 Agreement) details the appropriate methods for preserving and restoring all topsoil removed during construction to its original location and thickness in order to avoid the loss of productive soil. Likewise,

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<sup>8</sup> Cornell College of Agriculture and Life Sciences Pollinator Network provides education and resources on establishing such habitat available at <https://pollinator.cals.cornell.edu/resources/>

compaction of soils is also detrimental to agricultural productivity and water management and is addressed in detail.

Proposers should include in the Permitting Plan how they plan to adhere to and comply with the AGM Guidelines and what monitoring protocols will be implemented to evaluate any changes over the life of the project that may require further mitigation or restoration.

### **Stormwater Runoff**

The construction of large-scale renewable energy projects can create different patterns of stormwater runoff and may interfere with existing stormwater and erosion control structures. Excessive runoff can erode valuable soil and carry sediments and pollutants, including herbicides used on site, to nearby streams, wetlands or other sensitive ecosystems. There are a number of construction and site design measures that Proposers should consider for avoiding these consequences, including leaving and maintaining the existing vegetation (if permanently vegetated) under and around panels, reduce the amount of grading needed, treating any runoff from access roads, and restoring all topsoil.

Proposers should include in the Permitting Plan how vegetation maintenance will be conducted on the project site for the life of the project and describe its strategy to reduce grading, treating runoff resulting from the project and restoring disturbed topsoil. Proposers should also seek to identify post-construction stormwater management areas that may limit normal agricultural cultivation, crop rotations, and harvesting, if these actions are feasible on the site.

In addition, Proposers are encouraged to familiarize themselves with relevant sections of the following publications/sections:

- New York State Standards and Specifications for Erosion and Sediment Control, November 2016: <https://www.dec.ny.gov/chemical/29066.html>
- New York State Stormwater Management Design Manual, January 2015: <https://www.dec.ny.gov/chemical/29072.html>
- New York State Pollution Discharge Elimination System (SPDES): <https://www.dec.ny.gov/permits/6054.html#:~:text=The%20SPDES%20program%20is%20designed,propagation%20of%20fish%20and%20wildlife>

### **Mitigation Payment Requirements for Large-Scale Solar Facilities**

NYSERDA has developed an approach to address concerns relating to solar development and the protection of agricultural soils in Agricultural Districts. Solar Bid Facilities awarded by NYSERDA may be responsible for making an agricultural mitigation payment to a designated fund based on the extent to which the solar project footprint, defined as the Facility Area, overlaps with land classified as Mineral Soil Groups (MSG) 1-4<sup>9</sup>, as further described below.

Proposers are strongly encouraged to seek to understand the Bid Facility's overlap with MSG 1-4 as thoroughly as possible, and identify the extent to which the Bid Facility overlaps with MSG classifications 1-4 in the current planned project site layout and alternate site layouts. County-specific information on MSG are published in the [Department of Agriculture and Markets 2021 Master List of Agricultural](#)

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<sup>9</sup> <https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessment-information>



Soils.<sup>10</sup> Agricultural District maps are available from [the Cornell CUGIR library](#).<sup>11</sup> NYSERDA has also provided Proposers with mapping resources to assess the level of overlap that their Bid Facility's Facility Area is with MSG 1-4, available at this [interactive map](#) and with downloadable shapefile data accessible from the [NYSERDA Solicitations for Large-scale Renewables webpage](#).

### **Agricultural Mitigation Definitions**

- The Facility Area is defined as all land area occupied during the commercial operation of the generation facility, the associated interconnection equipment and, if applicable, energy storage equipment as verified by NYSERDA through the Operational Certification process. Generally, this will include all areas within the facility's perimeter security fence(s) and the applicable facility related improvements outside of fenced areas. The Facility Area shall include the area "inside the fence" of the project including all fencing inclosing the mechanical equipment such as the solar arrays, inverters, location of any combiner boxes, fuses, switches, meters, distribution boards, monitoring systems such as Balance of Systems components, interconnection equipment, and stormwater controls. The Facility Area shall additionally include improvements of the project "outside of the fence" including access roads, parking areas, stormwater controls and other permanent facilities, or structures installed at the Facility Area, except vegetative landscape screenings or appropriately buried utilities such as electrical conductors or conduit(s).
- MSG 1-4 are [defined by the NYS Department of Agriculture and Markets](#) for each soil type in each county identified by the United State Department of Agriculture, and are used to classify the state's agricultural lands based upon soil productivity and capability. Each county in New York State has a listing of all soil types present in the county that is associated with a specific mineral soil group, MSG 1 through 10.
- The Mitigation Value per Acre is defined as the dollar value for MSG 1, 2, 3 and 4 according to the most current document entitled "[Agricultural Assessment Values Per Acre](#)" as prepared annually by the NYS Department of Taxation and Finance (NYSTF)<sup>12</sup>.
- The Mitigation Fund Payment is the calculated amount described below, which acts as the estimated benchmark that the Proposer would expect to pay based on the proposed site configuration (Facility Area), knowledge of on-site conditions and before any other action to decrease this payment amount. Payment amounts may be adjusted through consultations with the New York State Department of Agriculture and Markets (AGM) regarding co-agricultural opportunities, and based on the final site configuration (reduced or expanded facility occupied acreage).  
The Mitigation Fund Payment must be estimated and included by the Proposer as part of the Bid Proposal, and will be confirmed by NYSERDA prior to the offer of an award. The actual Mitigation Fund Payment, due at Commercial Operation Date (COD), will be determined by

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<sup>10</sup> AGM Agricultural Assessment Information; <https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessment-information>

<sup>11</sup> Cornell University Geospatial Information Repository (CUGIR); <https://cugir.library.cornell.edu>

<sup>12</sup> The Agricultural Assessment Values per Acre document is available from the NYSTF: <https://www.tax.ny.gov/pdf/publications/orpts/2021%20ag%20values%20for%20web.pdf>

NYSERDA based on the actual site footprint and any actual Facility Area overlap with MSG 1-4, and reduced by the value of NYSERDA approved co-agricultural measures, if any. The Mitigation Payment shall not exceed the estimated Mitigation Fund Payment value at the time of an award, unless the proposed project layout is substantively revised or expanded to increase to the Facility Area's footprint on MSG1-4.

The Mitigation Fund Payment will not increase due to a subsequent reclassification of MSG 1-4 or changes in the Mitigation Value per Acre.

In addition to a potential Mitigation Fund Payment, all solar awardees will be required to implement the requirements described in the "[Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands](#)" document (see Exhibit E to the Agreement).

### **Mitigation Fund Calculation**

Proposers of large-scale solar Bid Facilities will be required to identify the MSG map units for the entire acreage within the defined Facility Area using the most recent annual NYS Agricultural Land Classification for the county(ies) where the proposed facility is located. All Proposers of solar facilities will be required to report as part of the Step Two Bid Proposal the total acreage of the Facility Area occupied by MSG 1-4, and provide an estimate of expected mitigation costs if the impacts on MSG 1-4 exceed 30 acres.

If the final occupied acreage of the Facility Area on MSG 1-4 exceeds 30 acres, the Mitigation Fund Payment will be calculated by:

1. Finding the MSG 1-4 total acreage that the Facility Area occupies;
2. Assigning the appropriate [Mitigation Value per Acre](#) for each of the MSG 1, 2, 3, and 4 in the Facility Area;
3. Summing the total dollar value associated with each MSG 1-4; and
4. Multiplying this total dollar value by the proportion of the overall parcel(s) acreage that will be converted to the Facility Area.

For example, if the entire parcel(s) is being converted, the Mitigation Fund Payment is the total sum of the Mitigation Value per Acre for MSG 1-4. If 20% of the total parcel(s) acreage is converted by the Facility Area, the Mitigation Fund Payment would be 20% of the Mitigation Value per Acre total for MSG 1-4.

NYSERDA has provided Proposers with mapping resources to assess the level of overlap that their Bid Facility's Facility Area is expected to have on MSG 1-4. These are available on the [NYSERDA Solicitations for Large-scale Renewables webpage](#), and include an interactive map that identifies MSG 1-4 areas throughout the state. All areas of the map displayed in blue and labeled as "Mineral Soil Groups", with each polygon showing what soil class of MSG 1-4 the soil is listed as, and overlap on these areas in excess of 30 acres of the final Facility Area will trigger the mitigation mechanism described above. The data in the interactive map is also available in downloadable Shapefiles, organized by REDC Region, on the [Solicitations webpage](#).

The interactive map is available here, and is applicable to all RESRFP21-1 Bid Facilities: [RESRFP21-1 NYS Dept. of Agriculture and Markets Soil Groups](#)

NYSERDA will provide to all eligible Proposers an Agricultural Mitigation Fund Estimate Calculator as part of the Notice of Qualification, which Proposers may use to estimate what payment the Bid Facility may be subject to based on the Facility Area as currently proposed. The estimated Mitigation Fund Payment is a benchmark from which Proposers are encouraged to work with NYSERDA and AGM to implement mitigation measures that retain or introduce agricultural productivity within the Facility Area and/or the total parcel area upon which the Bid Facility is sited, and/or to modify the proposed Facility Area to minimize the facility's occupation of MSG 1-4, which may result in a reduction of the Mitigation Payment amount. Proposers are encouraged to review the mitigation measures in the "Farm and Field Fragmentation and Co-Location of Agricultural Practices" section of Appendix 2 for potential co-agricultural measures to introduce to the Facility Area and/or other areas of the parcel(s) as potential measures to reduce the final agricultural Mitigation Payment.