

MITIGATION PAYMENT REQUIREMENTS

NY-Sun Projects in Agricultural Districts



NYSERDA has adopted a new approach to address concerns relating to solar development and the protection of agricultural lands in Agricultural Districts. Projects receiving NY-Sun incentive awards from 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 MSG 1-4¹, as further described below.

The Mitigation Payment Requirements are only applicable to NY-Sun projects in designated New York State Agricultural Districts that have submitted interconnection applications (Step 3 of the Standardized Interconnection Requirements) on or after November 1, 2020. No payment related to agricultural mitigation or easement is or will be required regarding any project submits an interconnection application prior to November 1, 2020, including those that have received or shall receive NY-Sun incentives awards.

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. 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)².
- 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

¹ <https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessment-information>

² The Agricultural Assessment Values per Acre document is available from the NYSTF: <https://www.tax.ny.gov/pdf/publications/orpts/2020-ag-values-web.pdf>

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).

- For projects with Facility Areas that exceed 30 acres of overlap with MSG 1-4, the Mitigation Fund Payment must be estimated and included by the NY-Sun Participating Contractor as part of the NY-Sun incentive application, and will be confirmed by NYSERDA prior to the approval of an award. The actual Mitigation Fund Payment, due at Commercial Operation Date (COD), will be determined by 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.

Mitigation Fund Calculation

NY-Sun Participating Contractors submitting applications for ground-mount projects with Facility Areas greater than 30 acres located within New York State Agricultural Districts will be required to identify the mineral soil group 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. If the total acreage of the Facility Area occupied by MSG 1-4 can be demonstrated by the Contractor as being less than 30 acres, no Mitigation Fund Payment calculation will be required by the Contractor at the time of the bid submission.

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 Contractors with mapping resources ([the interactive map is available here](#)) to assess the level of overlap that their Bid Facility's Facility Area is expected to have on MSG 1-4. All areas of the map displayed in green and labeled as "Mineral Soil Groups" are classified as MSG 1-4, 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 [Large Scale Renewables Solicitations webpage](#).

NYSERDA has also provided an Agricultural Mitigation Estimate Calculator, which Contractors may use to estimate what payment a project may be subject to based on the Facility Area as currently proposed. The Calculator contains instructions within to allow Contractors to estimate their potential Mitigation Fund Payment, and is available at nyserdera.ny.gov/solar-contractor-resources.

The estimated Mitigation Fund Payment is a benchmark from which Contractors are encouraged to work with the AGM to implement mitigation measures that retain or introduce agricultural productivity within the Facility Area and/or the total parcel area upon which the project 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.