

Summary of Recent Solar Laws

Grid Supply (S-2605)

Dual Use (S-3484)

Overview

- The legislature and Governor seek to achieve the state’s clean energy goals and combat climate change.
 - Current goal is to develop 17 gigawatts of solar by 2035 and 32 gigawatts by 2050 (1 gigawatt requires ~5,000 acres of land)
 - This will require a sea change to how NJ produces the electricity it needs to grow and prosper
- There are obvious places where solar is preferred – landfills, parking lots and industrial rooftops, but that alone is not going to achieve these goals.
- It is recognized that if left unchecked, solar development could readily consume the best remaining farmland in the state.
- There are 2 solar bills: one related to utility-scale solar projects (“grid supply”) and the other to “dual use” of solar as part of a working farm.
- Both bills try to strike a balance between enabling solar development and protecting the state’s best farmland and other natural resources.
- Both bills require constant consultation between BPU and Secretary of Agriculture

Grid Supply Bill (S2605 and A4554) – as it relates to farmland

- Defines Grid Supply project as generating greater than 5MW of power; excludes net metered and “Community Solar” projects.
 - Grid Supply projects are eligible for renewable energy incentive certificates, to be known as “SREC-IIs”.
- Seeks to approve a minimum of 300 MW per year for 5 years
- Requires BPU to consult with Secretary of Ag and DEP in establishing siting criteria
- For agriculture, the focus is on protecting PRIME & STATEWIDE IMPORTANT (SWI) soils in each county’s Agricultural Development Area (ADA) – referred to below as the “best farmland”
 - Does NOT limit use of farmland outside of ADAs or marginal soils inside the ADAs

- Generally, prohibits use of PRIME & SWI soils in the ADAs without getting a waiver from BPU – but:
 - Allows development of up to 2.5% of the best farmland statewide to be developed **without a waiver** – (estimated at ~4,000 acres). Anything above that requires a waiver.
 - Absolute cap on the loss of the best farmland in each county's ADA to 5%
- Prohibits the use of the following lands **unless a waiver is granted**: Green Acres preserved properties, Pinelands preservation area and forest area, freshwater or coastal wetlands, Highlands preservation area, and other forested lands.
- Waiver process allows consideration of unique characteristics of a site (e.g., the site is already contaminated, an existing landfill, or the project would utilize existing areas of impervious coverage) that make it appropriate for solar development.
- Does not change current limits for solar development qualifying for Farmland Assessment (current limit is 2 MW and 10 acres) therefore, these grid supply projects will not be eligible for farmland assessment.
- Grid supply solar expressly prohibited on preserved farmland and existing laws related to limits on preserved farms are unchanged.
- Requires an annual payment of 1% of renewable energy incentive payments to Preserved NJ Fund Account (CBT dedication for farmland, open space, and historic preservation)
- After 5 years, BPU works with Agriculture and DEP to evaluate how the program is working and make recommended changes to siting criteria rules.

Dual Use (S3484 and A5434)

- Goal of the bill is to experiment to see what the best techniques are for using solar on working farms, while ensuring farming remains productive and viable.
- Sets up a 3–5-year pilot program to test the viability of the dual use concept
- Caps any one dual use project to 10 MW in size (likely 50-100 acres); caps the overall pilot program to 200 MW total (~1,000 – 2,000 acres)
- Dual use projects are eligible for “financial incentives” from BPU.
- Requires that land on which the dual use project is installed continues to be actively devoted to agricultural or horticultural use.
- Requires BPU to consult with DEP and Secretary of Ag in determining siting criteria; heavily relies on BPU consultation with Ag Secretary to implement all aspects of the bill.
- Projects will be evaluated based on factors such as monitoring the quality of ag/hort output of the farm; location; minimizing negative impacts to farmland; decommissioning plan; addressing stormwater and other resource issues; quality of research committed to during the evaluation period; diversity of agricultural production operations, etc.

- Authorizes a research study by a NJ public university to set up test projects and analyze viability of the dual use concept (FY22 budget contains resources to fund the research).
- Prohibits the loss of PRIME/SWI soils in ADAs unless it is in connection with the university test projects (no waiver provision available).
- Prohibits the use of the following lands **unless a waiver is granted:** Pinelands preservation area and forest area, freshwater or coastal wetlands, and Highlands preservation area.
- Makes dual use projects approved under the pilot program a **“permitted use”** within the municipality.
- After pilot period expires, BPU works with Agriculture to evaluate how the program is working and develop and adopt final rules for a dual-use program going forward.

[https://sonj.sharepoint.com/sites/AG/SADC/LegislationLegal/Renewable Energy/Solar - Grid Supply Law 2021/Summary of Solar Bills 7-9-21.docx](https://sonj.sharepoint.com/sites/AG/SADC/LegislationLegal/Renewable%20Energy/Solar%20-%20Grid%20Supply%20Law%202021/Summary%20of%20Solar%20Bills%207-9-21.docx)