§484-C. Solar energy compensation fee for impact to high-value agricultural land

1. Compensation fee. The department shall establish a solar energy compensation program in accordance with this section. The program must require a person who obtains approval under this article to construct or cause to be constructed a solar energy development located on high-value agricultural land as defined in section 3201, subsection 1 to pay a compensation fee or other form of compensation in accordance with this section for any portion of the development, including associated facilities, that is located on high-value agricultural land, referred to in this section as "the impacted area."

[PL 2023, c. 448, §1 (NEW).]

2. Calculating fee. The compensation fee under this section must be calculated by the department, in consultation with the Department of Agriculture, Conservation and Forestry, using the square footage of the impacted area and applying a per square foot compensation fee set by the department. The fee must be based upon the fair market value of the impacted area and include reasonable costs, including stewardship costs, for a compensation project, as defined by the department by rule, that is completed in whole or in part with the compensation fee. Square footage of the impacted area that is already subject to the compensation fee under section 484-D may not be included in calculating the compensation fee under this subsection. The compensation fee may be reduced by the department, in consultation with the Department of Agriculture, Conservation and Forestry, if the applicant proposes mitigation strategies, including, but not limited to, dual-use agricultural and solar production. The fee may be increased by the department, in consultation with the Department of Agriculture, Conservation and Forestry, based on the severity of the adverse impacts on the impacted area. For purposes of this subsection, "dual-use agricultural and solar production" means the productive use of land for agricultural production and solar energy production in accordance with standards established by rule adopted by the Department of Agriculture, Conservation and Forestry, in consultation with the department and the Department of Energy Resources.

[PL 2025, c. 597, Pt. A, §59 (AMD).]

3. Collection of fees. All compensation fees collected under this section must be deposited in an account in the Department of Agriculture, Conservation and Forestry and must be distributed at the discretion of the commissioner for the purpose of farmland conservation and solar mitigation projects. Notwithstanding any provision of law to the contrary, eligible investment earnings credited to this account become part of the assets of the account and any balance remaining in the account at the end of a fiscal year must be carried forward for the next fiscal year.

[PL 2023, c. 448, §1 (NEW).]

4. Conservation option. The department shall allow an applicant to meet the requirements of this section by conserving other land in accordance with this subsection. The amount of land conserved must be equal in square footage to the impacted area. The conserved land must be subject to a perpetual conservation easement or fee ownership by a public, quasi-public or municipal organization or a private, nonprofit organization that ensures the land remains available for agricultural production. An applicant who wishes to meet the requirements of this section in accordance with this subsection shall submit with the application a plan to execute the option and shall complete the fee purchase or conservation easement prior to the start of construction.

[PL 2023, c. 448, §1 (NEW).]

5. Location and type of projects. A compensation project funded in whole or in part by a compensation fee or land designated for a conservation option under this section must be located in the same region as the solar energy development and must consist of soils comparable to those in the impacted area unless otherwise approved by the department.

[PL 2023, c. 448, §1 (NEW).]

6. Responsibility for additional compensation. The requirements of this section are in addition to the requirements of section 480-Z and section 484-D.
[PL 2023, c. 448, §1 (NEW).]

7. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2023, c. 448, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 448, §1 (NEW). PL 2025, c. 597, Pt. A, §59 (AMD).

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