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## MEMORANDUM OF OPPOSITION

### S.1793-A (Hinchey) / A.3117-A (Lupardo)

*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*

April 2023

The Alliance for Clean Energy New York opposes S.1793-A/A.3117-A, a bill relating to renewable energy development on farmland, the review of permit applications to develop renewable energy projects and amending the regulations of the Office of Renewable Energy Siting (ORES). The bill requires ORES permit review to ensure no more than 5% of prime agricultural soils within an economic development council region are sited with solar. It also requires permittees to coordinate with county governments on limiting solar development to 15% of a county's area.

Agriculture and renewable energy can and should work together, particularly as we attempt to mitigate the worst effects of climate change, which not only threatens our food and energy systems, but every aspect of human society. ACE NY and its members are engaging with agencies on various fronts, including serving on the NYS Agricultural Technical Working Group and participating in the NYS Farmland Protection Working Group.

In New York, all solar projects must also already adhere to the NYS Dept. of Agriculture and Markets mitigation guidelines for solar projects on agricultural land, protecting topsoil and preventing permanent farmland loss. The guidelines protect agricultural soils and are an important part of obtaining permits under Article 10 and Section 94-c. The renewable industry will remain supportive as discussions evolve around appropriate agricultural preservation and mitigation requirements. However, the bill's cap of 5% of farmland in each economic development regions risks an arbitrary restriction on developing crucially needed, large-scale renewable energy projects in areas that can best support solar energy generation and avoids larger considerations on energy infrastructure, such as grid interconnection. The bill is unclear how county governments would calculate or determine what land area is developed and how that would impact permitting.

NYSERDA's procurement process encourages developers to avoid prime agriculture soils. If the projects do not completely avoid these soils, companies must pay a mitigation fee. Since this modification was made projects have decreased their projects' footprint on prime agriculture soils. This is a powerful incentive for project developers to avoid prime soils, pursue agricultural co-location plans and has proven to be effective. Despite this incentive structure, the bill imposes an additional farmland conservation fee that fails to incorporate the existing sensitivities in siting solar projects, and may make projects more expensive in the long term.

Solar projects are always and only built on land owned by willing landowners, who are often farmers that seek additional income to stay in farming or supplement their revenues. Solar projects offer farmers a steady revenue stream for decades, allowing their farm enterprise to continue in production. Solar projects can be designed as a form of medium-term conservation with strategies to improve soil health, protect pollinators and other species, and reduce runoff and erosion. Renewable energy projects contribute to the local economy through job creation, tax payments, and Host Community Benefits Agreements.

**For the above reasons, the Alliance for Clean Energy New York opposes this legislation.** For more information contact Deb Peck Kelleher, Deputy Director, at (c) 518-698-3211. All of ACE NY's memos on legislation are available at <https://www.aceny.org/legislative-actions>.