

Solar Decommissioning Site Location of Development Law – Minor Revision Application

Effective October 18, 2021, all solar energy development occupying three or more acres is subject to the decommissioning requirements contained in 35-A M.R.S. §§ 3491 through 3496 (enacted at [Public Law 2021, ch. 151](#)). These requirements apply to solar projects previously permitted by the Department if construction begins after October 1, 2021 or if the project undergoes a transfer of ownership after October 1, 2021.

Prior to enactment of this solar decommissioning law, the Department commonly required, as a condition of approval of a Site Location of Development Law (Site Law) permit for solar energy development occupying more than 20 acres, that the licensee develop a decommissioning plan and provide financial assurance for implementation of this plan. There are two key differences between the common decommissioning conditions included in previously issued Site Law permits and the new decommissioning law:

1. **Decommissioning.** The new law generally requires decommissioning to a depth of at least 24 inches or the depth of bedrock, whichever is less. There is a heightened requirement for any portion of a solar energy development located on land classified as “farmland” anytime within 5 years preceding the start of construction of the development. On farmland, decommissioning must be to a depth of 48 inches or the depth of bedrock, whichever is less. Additionally, for any portion of a project on farmland, the decommissioning plan must provide for the restoration of that farmland upon decommissioning sufficient to support resumption of farming or agricultural activities. 35-A M.R.S. §§ 3491(1), 3494. The common decommissioning conditions included in previously issued Site Law permits did not contain requirements specific to farmland or the exception related to bedrock.
2. **Financial Assurance.** The new law requires that the person responsible for decommissioning must demonstrate financial assurance to implement the decommissioning plan at the time the plan is approved. In addition, that financial assurance be updated 15 years after approval of the plan and no less frequently than every 5 years thereafter by December 31 of the year the update is due. 35-A M.R.S. § 3495(3). The common decommissioning conditions included in previously issued Site Law permits requires the financial assurance be updated at least every 5 years, which include updates no later than in years 5 and 10 following plan approval. The year 5 and year 10 updates are not required in the new law.

The Department has developed a [minor revision application form](#) that may be used by existing holders of Site Law permits with decommissioning conditions to align their existing permits with the new Solar Energy Development Decommissioning Law (35-A M.R.S. §§ 3491 – 3496).