

**§3499. Decommissioning plan required**

**1. Prohibition.** A person may not construct, cause to be constructed or operate a battery storage system development with a capacity of 2 megawatts or more without first obtaining approval of a decommissioning plan from the environmental permitting entity under this section.

[PL 2023, c. 215, §3 (NEW).]

**2. Plan requirements.** A decommissioning plan must provide for the decommissioning of a battery storage system development and include demonstration of current and future financial capacity, which must be unaffected by the owner's or operator's future financial condition, to fully fund decommissioning in accordance with an approved decommissioning plan under this section.

[PL 2023, c. 215, §3 (NEW).]

**3. Standards.** An environmental permitting entity shall approve a decommissioning plan whenever it finds the following:

A. The plan, if implemented, will result in successful decommissioning of the battery storage system development, including the restoration of farmland sufficient to support resumption of farming or agricultural activities; [PL 2023, c. 215, §3 (NEW).]

B. The plan provides for the recycling of the waste components of the battery storage system that are recyclable and disposing of the components that are not recyclable at facilities authorized to accept such components; [PL 2023, c. 215, §3 (NEW).]

C. The person identified in the plan as responsible for decommissioning demonstrates financial assurance, in the form of a performance bond, surety bond, irrevocable letter of credit or other form of financial assurance acceptable to the environmental permitting entity, for the total cost of decommissioning, including the cost of recycling the waste components of the battery storage system that are recyclable and disposing of the components that are not recyclable at facilities authorized to accept such components; and [PL 2023, c. 215, §3 (NEW).]

D. The plan requires the financial assurance be updated 15 years after approval of the plan and no less frequently than every 5 years thereafter. Updates to financial assurance required under this paragraph must be submitted to the environmental permitting entity on or before December 31st of the year in which such updates are required. [PL 2023, c. 215, §3 (NEW).]

[PL 2023, c. 215, §3 (NEW).]

**4. Applicability.** This section applies to a battery storage system development on which construction begins on or after January 1, 2024. This section does not apply to a battery storage system development on which construction begins prior to January 1, 2024 unless the battery storage system development undergoes a transfer of ownership on or after January 1, 2024 in which case a person may not operate the battery storage system after the transfer of ownership without a decommissioning plan approved by the environmental permitting entity under this section.

Upon a transfer of ownership of a battery storage system development subject to a decommissioning plan approved under this section, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the environmental permitting entity approves transfer of the decommissioning plan to the new owner or operator.

[PL 2023, c. 215, §3 (NEW).]

**5. Administration and enforcement; rulemaking.** The Department of Environmental Protection shall administer and enforce this chapter with respect to the decommissioning of battery storage system developments for which it is the environmental permitting entity, subject to the same powers and authorities granted to it pursuant to Title 38, chapter 2, which may include, but are not limited to, the adoption of rules and the establishment of reasonable fees. The Maine Land Use Planning Commission shall administer and enforce this chapter with respect to the decommissioning of battery storage system

developments for which it is the environmental permitting entity, subject to the same powers and authorities granted to it pursuant to Title 12, chapter 206-A, which may include, but are not limited to, the adoption of rules and the establishment of reasonable fees.

[PL 2023, c. 215, §3 (NEW).]

Notwithstanding Title 5, section 8071, subsection 3, rules adopted by the Department of Environmental Protection or by the Maine Land Use Planning Commission pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 215, §3 (NEW).]

#### SECTION HISTORY

PL 2023, c. 215, §3 (NEW).

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