COMMENTS RECEIVED FOR PROPOSED RULE REVISIONS:

PROPOSED REVISION OF

CHAPTER 2 AND CHAPTER 10 – SOLAR PHASE II

The following pages compile all written comments about the Chapter 2 and 10 Solar Phase II rulemaking submitted between July 2, 2025 and August 18, 2025.

Rebuttal Comments: The deadline for submissions in rebuttal to those comments is **September 2, 2025**. Rebuttal comments will be posted on the LUPC's rulemaking webpage (www.maine.gov/dacf/lupc/laws_rules/proposed_rules/rules.shtml) following the close of the rebuttal period.

From: Paul Williamson
To: Lamb, Megan
Subject: RE: LUPC – Proposed Chapter 2 and Chapter 10 Revisions, Solar and Battery Energy Storage System Facilities
Date: Monday, July 14, 2025 3:38:58 PM
Attachments: image001.png

Hello Megan,
I did not see another link for comments submission. Please let me know if you can accept the following commens, or if I should submit them elsewhere.

Section K. 3 c and d appear to indicate that batter systems are allowed, but require a permit when “associated with solar energy generation facilities”.
I am not seeing text that would allow or require permits for stand alone batter energy storage facilities within D-RD.
Is this because battery systems are not allowed in D-RD, or because they do not require a permit in D-RD?
I would suggest that text be added to allow standalone battery systems when meeting the permit requirements, special exceptions and other standards (decommissioning, etc).
Thank you for taking my comment.
Best regards,

KEY CAPTURE ENERGY

Paul Williamson
Director, Development –ISONE
Phone: 207-242-3521 (EST)
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Megan Lamb
Maine Land Use Planning Commission
22 State House Station
Augusta, Maine 04333

August 8, 2025

Re: Proposed Rulemaking, Chapter 2 and 10: Solar and Battery Energy Storage Systems

Dear Ms. Lamb:

Thank you for the opportunity to submit comments on the Land Use Planning Commission's (Commission, LUPC) proposed amendments to their Chapters 2 and 10 rules regarding solar and battery energy storage systems on behalf of the Maine Renewable Energy Association (MREA). MREA is a Maine-based non-profit association of renewable energy developers and producers, suppliers of goods and services to those developers and producers, and other supporters of the industry. Our member companies work in all facets of solar energy generation and battery energy storage, at all scales, across Maine.

MREA offers the following recommendations on the proposed rulemaking, presented in the same order as the proposed amendments:

- **Modify the proposed definitions for "Battery Energy Storage System" and "Battery Energy Storage Facility".** MREA appreciates that the intention is to distinguish between accessory-type and co-located or standalone projects, respectively. However, we believe additional amendments may be necessary to achieve that intent. The Commission should consider eliminating the phrase "or the grid" in the former definition, as it suggests a co-located or standalone facility in which all or a meaningful portion of the project's output provides grid services. The Commission may consider distinguishing based on the amount of the project's output that serves load behind the meter where the project is located. Recent law draws a line for tax purposes at projects where 50% or more of the project's input services load behind the meter where the project is located. *See* P.L. 2025, ch. 467.

- **MREA presumes that the Commission intended to reference 35-A M.R.S. *Chapter 34-E* (emphasis added) in the proposed definition for "Battery Energy Storage System Facility".**

- **MREA recommends the following amendment (highlighted in gray) to Section 10.08,K,2,a,(4),(iii-iv) in order to avoid unduly limiting opportunity for large-scale solar energy generation facilities, while maintaining land use compatibility:**

(4) Mid-scale or ~~grid~~large-scale solar energy generation facilities in an area:

(i) accessible from a public road by a legal right of access satisfying Section 10.08-A,E;

(ii) located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency; ~~and~~

(iii) within five~~one~~ miles of the proposed point of interconnection with the existing transmission grid if no other area suitable for the facility and closer to a point of interconnection is reasonably available to the applicant seeking to establish a D-RD subdistrict; and

(iv) Notwithstanding Section 10.21,K,1,a,(4),(iii), the Commission may allow a distance of greater than~~up to~~ five~~three~~ miles from the proposed point of interconnection if the proposed facility will be sited in part on preferred locations such as brownfields, landfills, ~~or~~ gravel pits, other disturbed areas or the facility will co-locate with active agricultural uses, and, ~~unless~~ the applicant demonstrates that redistricting an area ~~no~~ more than five~~three~~miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas.

MREA recommends these amendments because the existing and proposed rules do not offer adequate flexibility for locating large-scale solar energy generation facilities, which will continue to play a crucial role in achieving Maine's clean energy and greenhouse gas reduction statutory mandates.[1] Current and proposed rules limit the distance a large-scale solar energy generation facility from a proposed point of interconnection with the existing transmission grid to one mile or up to three miles if the proposed facility is located on "preferred locations such as brownfields, landfills, gravel pits, or the facility will co-locate with active agricultural uses." MREA recommends increasing that distance to at least 5 miles and more in limited circumstances.

Solar developers are very motivated to limit distance from interconnection or the length of a proposed "generator lead line". Increased distance adds cost and presents the challenges inherent in crossing multiple parcels, landownerships, etc. However, circumstances may demand longer generator lead lines and are not uncommon. For example, the recently completed "Three Corners Solar" facility located in part in LUPC jurisdiction has a 5 mile lead line, necessitated by set-back requirements and to minimize impacts of the panel areas. Large-scale solar energy generation facilities can be upwards of 400 acres, a size that is inherently challenging to site. The changes proposed by MREA will allow developers to work

[1] *See* P.L. 2025, ch. 386 and 38 M.R.S. §576-A (2019).

with the Commission and the Department of Environmental Protection to identify facility areas that minimize land use and environmental impacts, without undue constraints imposed by generator lead line length limitations.

MREA's recommended amendment also includes adding "in part" to "preferred locations". Brownfields, landfills, etc. that can accommodate the entirety of a large-scale solar energy generation facility are extremely limited. In order to promote this type of efficient land use, we recommend that the Commission require that only a portion of the facility be located in preferred areas.

- **Change "All Energy Generation" to "Solar Energy Generation" in the header of Section 10.28,U,1.** We understand that the intent is for this section to only apply to solar energy generation and storage facilities. The purpose of this recommendation is to avoid confusion.

- **Remove proposed standard that facilities provide an interconnection agreement prior to permit approval.** Requiring an executed interconnection agreement (IA) prior to the issuance of a final permit order introduces unnecessary and disproportionate risk for facility developers. Securing an IA typically involves a significant financial commitment—often several million dollars—as well as insurance procurement and the completion of other complex administrative steps. These are actions a developer would reasonably only take once there is a high degree of certainty that the project will be permitted.

  Tying permit approval to the execution of the IA creates a substantial barrier to development, as it forces developers to take on significant financial and legal obligations without assurance that the project is approvable. This structure may discourage otherwise viable renewable energy projects from proceeding, particularly in unorganized territories where infrastructure and permitting challenges are already considerable.

  MREA believes that the permitting process should proceed independently of the interconnection process. There is no material risk to the state or the permitting authority in issuing a permit without a fully executed IA, as a project cannot be constructed or interconnected without one. In other words, even with a permit in hand, a project cannot move forward unless the IA is ultimately secured. This inherent limitation ensures that only viable, fully connected projects are built, without the need to artificially link permit issuance to interconnection status.

- **Require Emergency Response Plans only for Mid-scale and Large-scale Solar Energy Generation Facilities.** The proposed rules would require a plan for all facilities, including those that are very small (<1 acre) and that typically are for on-site use.

- **Remove the Glare standard all together.** Solar panels generate power by absorbing light; any light reflected is energy wasted. To avoid this waste, most solar panels have

textured glass and anti-reflective coating that reduces glare. Modern panels have a standard anti-glare coating that guarantees that the max reflection is 2%. In comparison, residential windows reflect at 3%. Including a Glare standard may serve to perpetuate the myth that solar presents glare concerns. Notably, the only meaningful glare concern is proximity to airports and airstrips, of which the Federal Aviation Administration has existing standards.

- **Vegetative Visual Screening standards should be consistent with standards for other types of development.** As proposed, "mid-scale and large-scale solar energy generation facilities must maintain vegetative visual screening on side and rear property lines to the maximum extent possible", regardless of whether the facility is proximate to or visible from existing development. MREA recommends modifying the standard to be consistent with Commission standards for rural businesses, which requires at least 15 feet in width to minimize visual impacts from surrounding uses and if no natural vegetation exists, the buffer may consist of fences, walls, berms, trees, or hedges. *See* Section 10.27,R,3.

- **Remove "wildlife movement" standard.** *See* Section 10.28,U,2,c. MREA recommends removing this standard because it is duplicative or unnecessary. Typically, "accessory", "small-scale", and "medium-scale" solar energy generation facilities are not fenced. In order to meet National Electric Code standards, such projects typically use a mesh mounted on the underside of panels to protect the wiring and to otherwise limit access and exposure. "Large-scale" projects are all subject to the Department of Environmental Protection's Site Location of Development Act permit, which already requires that facilities accommodate wildlife movement, consistent with the Department of Inland Fisheries and Wildlife's recommendations.

- **Clarify and/or modify grading requirements**. *See* Section 10.28,V,1,d. The proposed rules require that decommissioning plans include adequate provisions for "grading to *post*construction grade and revegetation" (emphasis added). We suspect that the Commission intended *pre*construction grade. Regardless of the Commission's intent, we urge caution because re-grading risks higher environmental impact than leaving the grade as is. Typically, any grading is performed to reduce the level of the grade (in the case of a solar facility, before the foundation and racking is installed). Returning a site to higher slopes that existed before the facility may increase erosion risk and would definitely increase cost and complexity.

- **Align decommissioning cost requirements with statute.** The proposed Section 10.28,V,1,h is vague and should be modified to align with statute, which says that to keep decommissioning costs current, financial assurances (within the plan) must be updated 15 years after the approval of the decommissioning plan and no less frequently than 5 years thereafter.[2]

[2] *See* 35-A M.R.S. §3499(3)(D) (2023).

- **Remove Section 10.28,V,2,c.** The proposed requirement that a decommissioning plan be updated and submitted for approval 15 years after the decommissioning plan is approved and no less frequently than 5 years thereafter. Statute requires only that financial assurances (within the plan) be updated on this timeline.[3] As an alternative, MREA recommends that the 10.28,V,2,e be modified as such (highlighted in gray): "The applicant or the Commission may request an update to the decommissioning plan if there has been a material change in circumstances related to the facility~~at any time~~." This language allows for plan updates, but narrows the Commission's discretion.

- **Remove Section 10.28,V,3,a,(3).** This standard is not applicable to any other land use in the jurisdiction and may be broadly construed to the detriment of facilities.

Thank you for your consideration of our comments.

Sincerely,

Eliza Donoghue, Esq.
Executive Director

[3] *Id.*

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Maine Land Use Planning Commission

From: LUPC Staff

Date: August 18, 2025

Re: Proposed 2025 Chapters 2 and 10 Solar Energy Generation Facility Rule Revisions

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On behalf of the Maine Land Use Planning Commission staff, we submit the following comments on the draft rule revisions.

The proposed rule revisions, as posted for public comment, include proposed updates to Chapter 10 to incorporate battery energy storage system facilities as an allowed use in certain subdistricts. The additions are intended to be consistent with how solar energy generation facilities are listed within those same subdistricts. Specifically, facilities not located on soils recognized by the U.S. Department of Energy as prime farmland soils were intended to be added as a use allowed by permit and those located on such soils were to be added as a use allowed by special exception.

The following edits were inadvertently not included in the proposed revisions posted for public comment and should be added to avoid confusion.

Recommended Edits

- Revise Section 10.21(A)(3)(c) (additional changes proposed by this staff comment are highlighted):

  "**c. Uses Requiring a Permit**
  The following uses, and related accessory structures, may be allowed within D-CI subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III:

  …

  (2) Battery energy storage system facilities not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;

  …

BENJAMIN GODSOE
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d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-CI subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and the applicable requirements set forth in Sub-Chapter III:

…

(1) Battery energy storage system facilities located on soils recognized by the U.S. Department of ~~Energy~~ Agriculture as prime farmland soils.

…"

- Revise Section 10.21(K)(3) as follows:

"**c. Uses Requiring a Permit**

The following uses, and related accessory structures, may be allowed within D-RD subdistricts upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-B, subject to the applicable requirements set forth in Sub-Chapter III:

…

(2) Battery energy storage system facilities associated with solar energy generation facilities and not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils;

…

d. Special Exceptions

The following uses, and related accessory structures, may be allowed within D-RD subdistricts as special exceptions upon issuance of a permit from the Commission pursuant to 12 M.R.S. §685-A(10), the criteria of Sections 10.24,B,3 and 9, and subject to the applicable requirements set forth in Sub-Chapter III:

(1) Battery energy storage system facilities associated with solar energy generation facilities and located on soils recognized by the U.S. Department of Agriculture as prime farmland soils; and

…"

MAINE FARMLAND TRUST

Maine Department of Agriculture, Conservation and Forestry
Maine Land Use Planning Commission
Attn: Megan Lamb
22 State House Station
18 Elkins Lane, Harlow Building
Augusta, Maine 04333-0022

August 18, 2025

Re: Comment on Proposed Amendments to Chapter 2 and 10: Solar and Battery Energy Storage Systems

Dear Megan Lamb,

Thank you for the opportunity to provide input on the Land Use Planning Commission's (LUPC) 2025 Solar Rulemaking, Phase II: Siting and Activity Standards for Solar Energy Generation Facilities, Chapter 2 and Chapter 10: Solar and Battery Energy Storage Systems. The amendments being proposed present an important opportunity for the LUPC to advance balanced solar siting that avoids or minimizes the impact of renewable energy development on our state's limited and critical agricultural resources.

Maine Farmland Trust (MFT) is a member-powered statewide organization that works to protect farmland, support farmers, and advance the future of farming. Our goal is to keep agricultural lands working and help farmers and their communities thrive. Since our founding in 1999, MFT has helped to permanently protect farmland in every county in Maine, amounting to nearly 57,000 acres across 345 farms. Our Farm Network includes more than 550 farms that have participated in MFT's Farmland Protection & Access, Business Planning, Climate Resilience, and PFAS Support programs.

MFT has the following feedback on the proposed rule changes:

Feedback on 10.21.A, the Commercial Industrial Development Subdistrict

- We appreciate the proposed amendment of 10.21.A.3.d(1), which adds battery energy storage system (BESS) facilities located on prime farmland soils as a land use requiring issuance of a permit by special exception in the Commercial Industrial Development Subdistrict (D-CI). We want to note that there is a typo in this proposed amendment, in that these soils are recognized by the United States Department of Agriculture, not the Department of Energy as currently drafted. Soils that are classified as prime farmland and farmland of statewide importance are a finite and critical natural resource and are the most conducive to productive agriculture. MFT supports land use policies that provide these soils with special attention and protection so they remain available for agricultural use. Please see the additional feedback we have on soil types that is also relevant to this subdistrict below under 'General/cross-cutting feedback.'
- We are curious if there are any opportunities within the D-CI subdistrict to incentivize siting solar energy generation facilities and BESS facilities on previously impacted or

developed areas as well as encourage dual-use agricultural and solar energy production projects. MFT is pleased to see this approach taken in the proposed amendments to the D-RD subdistrict, and we encourage consideration of similar or alternative mechanisms via the permitting process that could be employed for the D-CI subdistrict.

Feedback on 10.21.K, the Resource-Dependent Development Subdistrict

- We appreciate the suggested addition to 10.21.K.2.a(4)(iv) as a way to encourage the siting of solar energy generation facilities on previously impacted areas and promote the integration of solar and agricultural production. We offer the following suggestions on this proposed amendment:
    - Add PFAS-impacted farmland to the types of preferred siting locations and include specification that the land must contain presence of per- and polyfluoroalkyl substances (PFAS) in concentrations that currently make it unsuitable for agricultural purposes, as determined by the Maine Department of Agriculture, Conservation and Forestry (DACF). This preferred siting strategy would help to address both the challenge of PFAS contamination threatening the financial stability of farm businesses and families, and the need for balanced solar siting strategies that do not impede agricultural production or land access for farmers. This strategy also aligns with other recently passed state laws (LD 1591 in the 131st Legislature and the final Chapter 575 rule adopted by Maine DACF in response to the passage of LD 1881 in the 131st Legislature).
    - Strengthen the language encouraging integration of agriculture and solar beyond 'co-locating,' as depending on how that term is defined, it may be interpreted as a solar development project that is located on a portion of productive farmland that is simply adjacent to active farming activities. One suggestion is to align this proposed language with DACF's Ch. 575 definition (page 5) for dual-use agricultural and solar production projects, which states that *"dual-use agricultural/agriculture and solar production (dual-use) means the co-location of agricultural activities with a solar energy development, the combination of which: (A) result in the production of agricultural products to retain the land's agricultural productivity; and (B) are conducted according to a management plan, which is updated annually. To be considered dual-use, agricultural activities must occur under, between, or around solar panels within the fenced-in area of a solar energy development."*
- It is not clear to us why there is a connection to prime farmland soils for the proposed BESS special exception use in the D-CI subdistrict, whereas in the D-RD subdistrict BESS are being proposed as a special exception use without mention of prime farmland soils. We note that in the existing Ch. 10 rule for the D-RD subdistrict, solar energy generation facilities are listed as a use requiring a permit when not located on prime farmland soils and requiring a permit issued by special exception when located on these soils. If qualifying BESS in a similar way (i.e. tying the facilities as a special exception use when located on prime farmland soils) would have the effect of encouraging the siting of BESS *not* on prime farmland soils (perhaps in order to qualify for a simpler permitting process), MFT recommends consideration of this.

Feedback on 10.28.U, Solar Energy Generation Facilities and Battery Energy Storage System Facilities

- For the proposed amendment of 10.28.U.2.c focused on wildlife movement, we want to put forward the consideration that wildlife permeable fencing may present challenges for livestock and agricultural activities associated with dual-use agricultural and solar energy production projects. We offer the suggestion that an additional exception case be added

for proposed projects in which there are plans for simultaneous solar energy and agricultural production.

General/cross-cutting feedback

- In addition to special consideration for solar energy generation and BESS facility siting on prime farmland, which again we are pleased to see included throughout Chapter 10, we also suggest consideration of soils that are classified by the USDA Natural Resources Conservation Service as farmland of statewide importance, as well as wild blueberry barrens, as these two land/soils types are different classifications than prime farmland but are also valuable agricultural resources that are critical to the current and future viability of agriculture within the LUPC's jurisdiction. The definitions for these land/soils types that are included within DACF's Chapter 575 could be a useful resource.
- In general, MFT encourages consistency and alignment between the LUPC Chapter 10 rule changes being proposed by this rule amendment, as they relate to renewable energy facility siting on agricultural land, and DACF's Chapter 575: Permitting Solar Energy Developments on High-Value Agricultural Land. It is our understanding that a proposed solar project that would impact High-Value Agricultural Land, as defined by DACF in Ch. 575, and is located in LUPC's jurisdiction would also require a permit from DACF, and it would therefore be beneficial for there to be consistency between the Ch. 575 and Ch. 10 rules as they relate to siting on agricultural land, to the extent this consistency makes sense and is applicable.

Thank you for the opportunity to provide comments and for your consideration of our input. Maine Farmland Trust is available should you have any follow-up questions or comments.

Sincerely,

Abby Farnham
Assistant Director, Policy and Research
Maine Farmland Trust

MAINE AUDUBON

Megan Lamb, Senior Planner
Land Use Planning Commission
Department of Agriculture, Conservation and Forestry
18 Elkins Lane, Harlow Building
Augusta, Maine 04333

August 18, 2025

RE: Public Comment for Chapters 2 and 10, Solar and Battery Energy Storage Systems

Dear Senior Planner Lamb:

Thank you for the opportunity to provide comments on behalf of Maine Audubon and our 30,000 members, supporters, and volunteers. Our organization is a wildlife conservation nonprofit – we fulfill our mission to "conserve Maine wildlife and wildlife habitat" by engaging people of all ages in nature through a science-based approach to education, conservation, and advocacy. We are providing comments on the Land Use Planning Commission's (LUPC) proposed amendments to Chapters 2 and 10, which address siting, evaluation, and permitting standards for both solar energy generation facilities and battery energy storage system (BESS) facilities.

Maine Audubon has been fighting to protect Maine wildlife and wildlife habitat for nearly two centuries, and climate change may be our most difficult battle yet. The impacts are being measured in every corner of Maine, affecting our wildlife, our habitats, and our lives. The very essence of our state is under threat and it is happening before our eyes. Species that define our state – Common Loons, American Lobster, and Atlantic Puffins – are all forecasted to leave our state if current projections continue. The best tool for Maine to fend off the worst impacts of climate change and to move away from the burning of fossil fuels is to significantly increase our production and storage of local, renewable energy. Unfortunately, Maine remains heavily dependent on fossil fuels to heat our homes, power our vehicles, and generate electricity. This dependence not only drives climate instability, but also exposes Maine families and businesses to high and volatile energy costs. Mainers spend more than $4 billion every year on imported oil and gas, money that leaves our state instead of building a resilient, homegrown clean energy economy.[1] For these reasons, we commend LUPC staff on their work on this multi-year effort to improve efficiency and increase clarity in siting, evaluating, and permitting of solar energy generation and BESS facilities in the unorganized territories (UT).

Overall, Maine Audubon expresses our support for several components of the proposed rule changes, however, we offer the following recommendations which we believe will help the Commission improve

[1] Maine Governor's Energy Office. 2025. *Maine Energy Plan: Advancing affordable, reliable, and clean energy for Maine*. Accessed at www.maine.gov/energy/sites/maine.gov.energy/files/2025-01/Maine%20Energy%20Plan%20January%202025.pdf

their amendments to Chapters 2 and 10, as well as support the State in reaching its requirement of 100% clean electricity in Maine by 2040[2] and goal of reaching 400 megawatts of energy storage by 2030.[3]

Our comments are ordered chronologically based on the proposed amendments:

CHAPTER 2 –

- **Chapter 2 – Definitions**: Maine Audubon presumes that the Commission intended to reference 35-A M.R.S. Chapter ***34-E*** in the proposed definition for "Battery Energy Storage System Facility."
- **Chapter 2 – Definitions**: We support including "or off-site use" in the definition of small-scale solar energy generation facility as it will help eliminate unnecessary limitations for energy produced from small-scale projects.

CHAPTER 10 –

- **Chapter 10.21,A,3,d,(1)**: We concur with the LUPC's proposal to include BESS facilities as structures deemed "special exceptions" (note that the term "exemptions" is used at times throughout the proposed rule) on prime agricultural soils upon issuance of a permit in the Commercial Industrial Development Subdistrict (D-C1), just as solar energy generation facilities are considered currently. We believe dual-use or agrovoltaics projects are an exciting, evolving area that has the potential to provide ecological, economic, and community benefits in addition to clean energy production. This type of development inherently attempts to address the challenges with balancing necessary renewable energy generation projects while minimizing loss of productive agricultural land and should be further explored and incentivized in our state. As habitat loss to development is the leading cause of species endangerment, we support expanding opportunities for the co-location of renewable energy facilities and storage facilities.
- **Chapter 10.21,K,1**: We recommend including BESSs in the list of allowable facilities in the "Purpose" section.
- **Chapter 10.21,K,2,a**: We presume the Commission meant to include BESS facilities within the list of development types allowed within the Resource-Dependent Development Subdistrict (D-RD).
- **Chapter 10.21,K,2,a,(4),(iii)**: Based on conversations with the regulated community, we understand that the one mile limit for interconnection does not provide the necessary flexibility needed for locating large-scale solar energy generation facilities. As renewable energy developers are limited by locations of existing infrastructure, providing some flexibility for large-scale projects could potentially result in fewer environmental impacts than more, smaller

[2] State of Maine. June 20,2025. LD 1868: *An Act to Advance a Clean Energy Economy by Updating Renewable and Clean Resource Procurement Laws*. Accessed at: https://legislature.maine.gov/legis/bills/getPDF.asp?paper=SP0738&item=3&snum=132

[3] Maine Governor's Energy Office. 2025. *Maine Energy Plan: Advancing affordable, reliable, and clean energy for Maine*. Accessed at www.maine.gov/energy/sites/maine.gov.energy/files/2025-01/Maine%20Energy%20Plan%20January%202025.pdf

projects. To help provide the flexibility required for thoughtfully locating large-scale solar energy generation facilities, we support increasing the interconnection limit to five miles.

- **Chapter 10.21,K,2,a,(4),(iv)**: Firstly, we presume the Commission meant to reference Chapter 10.21,K,*2*,a,(4),(iii) at the start of this paragraph. Secondly, per our reasoning above, Maine Audubon recommends increasing the interconnection limit from three miles to five miles if the proposed project will be sighted on "preferred locations." Thirdly, we strongly encourage defining the term "preferred locations" in **Chapter 2 – Definitions**. Maine Audubon offers the following definition:

  > **Preferred Locations:** Areas where solar energy generation facility and BESS facility siting is preferred, which include but are not limited to brownfields; landfills; sand and gravel pits; rooftops; roadway medians and edges; parking lots; idle or industrial or commercial sites; areas where co-location with active agriculture uses are possible; and otherwise disturbed, developed, or degraded lands.

  Additionally, we suggest refining the language related to siting on preferred locations to require that facilities, to the extent practicable, be sited on the *entire* preferred location. If meeting this standard is not possible, requiring an explanation for why the facility can only be sited on *part* of the preferred location should be required as part of the permitting process.
- **Chapter 10.21,K,3,d,(1)**: Per our reasoning above, we concur with the LUPC's proposal to include BESS facilities associated with solar energy generation facilities as structures deemed "special exceptions" on prime agricultural soils upon issuance of a permit in the D-RD subdistrict.
- **Chapter 10.21,M,3,d,(5)**: We concur with the LUPC's proposal to include small-scale solar energy generation facilities as "special exceptions" in the Residential Development Subdistrict (D-RS) upon issuance of a permit.
- **Chapter 10.28,U:** It is presumed that the Commission intended to reference Chapter 10.*27* throughout this section. Additionally, unless a rulemaking unrelated to this proposal includes additions to 10.27 as well, we presume the commission meant for "U. SOLAR ENERGY GENERATION FACILITIES AND BATTERY ENERGY STORAGE SYSTEM FACILITIES" to be "*T*."
- **Chapter 10.28,U,1:** Maine Audubon adamantly supports striking part a in this section. We understand that it is critical that the permitting process proceed independently of the interconnection agreement (IA) process and requiring proof of an IA prior to permit approval runs counter to the established process that developers currently adhere to. Permit approval marks an essential and initial step required in order to formally secure an IA. To reflect the current regulatory climate and facilitate the thoughtful and rapid deployment of renewables in Maine, we believe the IA process should proceed independently of the permitting process.
- **Chapter 10.28,U,2,a**: It is our understanding that the direct and/or indirect impacts of glare from solar panels on wildlife is still a relatively unexplored topic, so we appreciate the

Commission proposing that developers evaluate opportunities to reduce glare "whenever possible" and to the "maximum extent possible."

- **Chapter 10.28,U,2,b**: Maine Audubon urges that standards for vegetative visual screening be consistent with standards for other types of development in order to not create an unnecessary standard for renewables. The Commission should consider modifying the standard to be consistent with LUPC standards for rural businesses (10.27,R,3).
- **Chapter 10.28,U,2,c**: Developing a plan for wildlife movement – including wildlife-friendly fencing, when applicable – is considered a best practice for responsible renewable energy siting. Whenever possible, we support minimizing the use of fencing and where fencing is required, urge facilities to embrace designs that allow for wildlife passage. Fencing is often necessary around energy facilities, renewable or not, for public safety reasons. But these fences can also impede the movement of wildlife which could otherwise continue to safely utilize the site and/or inadvertently trap wildlife. For sites with areas of distinct, limited safety concerns, fencing should be limited to only those small distinct areas, such as around individual solar panels or equipment, rather than enclosing the entire facility. For more extensive areas that must have fencing, alterations to the fencing should be made to facilitate wildlife movements as needed. For instance, fences can be installed with a gap at the bottom to allow for small animals moving across a site (such as turtles, small mammals, etc.) but still prevent humans from entering. Where site activities during construction or operation could endanger wildlife, silt fences and other barriers should be used to prevent wildlife from entering the site. For mid and large-scale projects, many of these standards would be implemented as part of other permitting application processes developers would be pursuing with the Department of Environmental Protection and informed by the Department of Inland Fisheries and Wildlife. However, we agree that developers of all solar energy generation facilities – *regardless of size* – should deliver a plan to address relevant wildlife concerns regarding movement and accidental trapping.
- **Chapter 10.28,U,1,d**: Maine Audubon urges caution requiring grading to postconstruction grade and revegetation as there could be scenarios where the least environmentally impactful and, potentially, environmentally beneficial decommissioning option would exclude regrading and revegetating and instead embrace minimizing interaction with the landscape after the end of a project's life.
- **Chapter 10.28,V**: Unless a rulemaking unrelated to this proposal includes additions to 10.27 as well, we presume the commission meant for "V. DECOMMISSIONING" to be "*U*."Developing a decommissioning plan that includes site restoration to a natural or agricultural landscape developed up front with established timelines and funding sources is critical. The decommissioning of a renewable energy project can be just as important as the construction plan, as far as long-term impacts to wildlife and the environment are concerned. Most solar projects have an expected lifespan of 20 to 25 years, at which point they can be repowered (retrofit to meet current standards) or decommissioned (de-energized and removed from the site). Oftentimes when renewable energy projects are proposed, they are described as being "temporary" structures because of this short lifespan, and are therefore not considered to have the same "permanent" effects of other developments such as commercial or residential

developments. This is only true if the renewable energy facility is decommissioned and completely removed from the site at the end of its life, and the site is restored to a more natural landscape. Pending expert-level review, if the site was previously forested, the decommissioning plan should include specific steps that will be taken to reestablish a forest. Similarly, pending expert review, if the site was previously productive agriculture, it should be returned to that state upon decommissioning. Notably, the ease, cost, and ultimate success of such decommissioning and restoration are improved when impacts incurred during construction and operation are limited. We support the LUPC's proposal to require decommissioning plans provided the standards reflect current statutory requirements.

- **Chapter 10.28,V,3,a,(3)**: Maine Audubon recommends removing this standard, as it is our understanding that it is not applicable to any other activities and could easily be used to the detriment of solar construction. Public health, safety, and general welfare is thoroughly covered in other permits and requirements for project acceptance.

Expanding renewable energy development and storage opportunities is critical to mitigating the impacts of climate change on Maine's environment and natural resource-based economies. Maine Audubon appreciates the opportunity to contribute comments to the proposed rules, and extends our gratitude to the LUPC for their commendable work on this proposal.

Thank you for your consideration and we welcome questions or follow-up conversation.

Sincerely,

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