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Department of Conservation and Energy Office of the Secretary

Notice of Public Hearing Substantive Changes to Proposed Rule Regulation of Solar Power Generation Facilities (LAC 43:I.5101-5121)

In accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Conservation and Energy, Office of the Secretary, published a Notice of Intent in the August 20, 2025 edition of the *Louisiana Register* (LR 51:1203-1210) to adopt LAC 43:I.5101-5121 as authorized by R.S. 30:1154 and Act 555 of the 2022 Regular Legislative Session. The Notice of Intent proposed the adopt provisions governing the decommissioning and required financial security for solar power generation facilities and issue the required permits to construct and operate such facilities. The department submitted a summary report to the appropriate legislative committees on December 16, 2025, with revisions to the proposed Rule intended to provide clarity to its provisions. As a result, the department has determined that additional revisions are necessary to address concerns and provide non-technical changes for clarifications and structural changes to resulting from additional revisions.

Taken together, the proposed revisions will closely align with the proposed Rule published in the August 2025 edition of the *Louisiana Register* (LR 51:1203-1210). The alignment of these Rules will permit the implementation of of the statutorily required permitting program for solar power generation facilities and rules governing the decommissioning and required financial security for obtaining said permits. No fiscal or economic impact will result from the revisions proposed in this notice.

Title 43 **NATURAL RESOURCES** **Part I. Office of the Secretary** **Subpart 5. Renewable Energy**

Chapter 51. Solar Power Generation Facilities

§5101. Definitions

The definitions provided in this Section shall have the following meanings within this Chapter.

Department—the Department of Conservation and Energy, or its successors.

Designated Operator—any person with control or management of activities of a solar power generation facility who is authorized on behalf of all responsible parties as being primarily responsible for complying with all registration, permit, and financial security requirements set forth in this Chapter.

Effective Date—July 1, 2026, or the date of final promulgation of these rules and regulations if later.

Responsible Party—any person that owns, in whole or in part, a solar power generation facility, is the lessee of the land on which the facility is located, or both.

Restoration—returning the site on which a solar power generation facility was situated to its reasonable pre-construction condition in compliance with all applicable governmental regulations, procedures, and standards.

Restoration Activities—reconditioning the land where a solar power generation facility was sited such that the land, to the extent practicable, resembles its condition prior to construction and operation of the facility. The secretary may consult with the department and other state or federal agencies to determine the type of restoration activities needed to reasonably restore the land, which may include, but are not limited to, grading, filling, planting native vegetation, and reforestation.

Salvage Value—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5103. Applicability

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5105. General Requirements for Solar Power Generation Facilities

A. - B. ...

C. No person shall begin construction or operate a facility without obtaining a permit issued by the department pursuant to Section 5109, unless the facility is exempt as set forth in Section 5119. A permit issued pursuant to this Chapter shall pertain to the implementation of a decommissioning plan and the financial security required by Sections 5113 and 5115. The permit applies to all stages of a facility's construction and operations; separate permits for each stage are not required. When feasible and upon request, the department may combine the permit application and requirements under this Chapter with other permits and their requirements under this Subpart into a singular permit to streamline regulatory compliance under this Subpart.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5107. Registration

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5109. Permit Requirement

A. As a prerequisite to the permit application, the designated operator of a proposed solar power generation facility shall send written notice to all adjacent landowners and the police jury or council of each parish where the proposed facility will be located. The notice shall include a general description of the proposed facility, including its location, the projected facility footprint and capacity, and the projected location of all electric transmission and distribution infrastructure related to interconnection of the facility to the electrical grid.

B. - C.1. ...

2. If the department finds that the application is not administratively complete, the department shall issue a written notice to the designated operator identifying all missing or deficient information required for approval. The designated operator shall address and remedy each such deficiency within 30 days after receipt of the notice. Upon request and a showing of good cause by the designated operator, the department may extend the 30-day submission deadline. Failure to correct or provide the information identified in the notice within the applicable deadline shall constitute abandonment of the application process. Abandonment shall not prejudice the right of a designated operator to reapply for a permit under this Chapter or Subpart.

D. ...

E. The department, in its discretion, may hold a public hearing concerning the decommissioning plan and financial security proposed in an administratively complete permit application. The department shall have 30 days to decide whether to hold a hearing. Each hearing shall be conducted solely to acquire information and afford the opportunity for public input on the information submitted in the permit application.

E.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5111. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5113. Decommissioning Requirements

A. - C.5. ...

6. Decommissioning Cost Estimate. The plan shall provide an itemized schedule estimating, to the extent practicable, all costs necessary for or related to decommissioning as required by this Chapter. The estimate shall be adjusted as provided in Subsection (D) throughout the facility's operational life. The plan must present the decommissioning estimate in the following in an itemized format:

a. the gross cost of all decommissioning activities, including all related labor, materials, and equipment costs;

b. an escalation rate, determined by the department to account for estimated future inflation until the cost estimate is revised in accordance with Subsection (D), that shall not exceed three percent per annum; and

c. the total amount of the decommissioning cost estimate to be covered by the selected financial security instrument(s) and approved by the department.

7. Financial Security. A statement identifying the financial security option chosen by the designated operator to secure the cost of all decommissioning activities.

8. Emergency Plans. A statement of committed assurance that the designated operator will establish an emergency plan in conjunction with local authorities.

D. The decommissioning plan and cost estimate shall be revised and submitted to the department every five years on or before the anniversary date of the permit's issuance and within six months following any modification to the facility that is estimated to increase or decrease the cost of decommissioning by 10 percent or more. The revised decommissioning plan shall be prepared in accordance with Paragraph (C)(1) and include all relevant adjustments to the cost estimate.

E. A facility that is under construction or operating prior to the effective date and has either provided a decommissioning plan or agreed to decommissioning terms and conditions in a lease or other form of agreement with the landowner, local police jury or council, or both may use the existing plan or agreement provisions in its permit application. However, the designated operator must submit revised plans in accordance with Subsection (D) that complies with the requirements set forth in Subsection (C).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5115. Financial Security Requirements

A. The designated operator of a solar power generation facility shall establish financial security to the department within 30 days after issuing a permit in an amount that will ensure sufficient funds are available for all decommissioning activities in compliance with this Chapter and R.S. 30:1154(A). The financial security required under this Section shall secure the cost of decommissioning and shall be callable in accordance with R.S. 30:1154(A).

B. Acceptable forms of financial security may include a performance bond, irrevocable letter(s) of credit, any other instrument approved by the Secretary through formal order, or a combination thereof.

C. The designated operator shall meet the financial security requirement by submitting to the department an acceptable form(s) of financial security in an amount equal to 100 percent of the approved decommissioning cost estimate as set forth in Section 5113(C)(6). The financial security instrument(s) must name the department as the beneficiary. The department will not release the financial security instrument(s) until it receives proof that the facility was fully decommissioned as required by this Chapter or receives a replacement form of financial security as provided herein. To ensure that the financial security instrument(s) is properly maintained, the designated operator shall provide the department with written notice at least 120 days before the existing form(s) of financial security expires. The designated operator must submit a replacement financial security instrument(s) consistent with the requirements of this Chapter no later than 30 days before the existing form(s) of financial security expires. Failure to provide a replacement financial security instrument(s) before this 30-day period shall be deemed a violation of these rules and subject the designated operator to revocation of the facility’s permit, the calling of the financial security instrument(s) and any other remedy authorized by law.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5117. Enforcement

A. - B.2. ...

C. If the department determines a facility has not been decommissioned in accordance with this Chapter, the department shall call upon the financial security instrument to decommission the facility. Where the financial security instrument(s) is insufficient to fund the decommissioning activities fully, the department may seek reimbursement from the designated operator or any responsible party for funds expended by the department to complete decommissioning activities.

D. - E. ...

F. The landowner will be considered a responsible party and subject to Subsections (C) and (D) only in the event that the landowner, who entered into a lease or other contractual agreement(s), calls upon the financial security instrument that names the landowner as the beneficiary and does not decommission the facility in accordance with the requirements of this Chapter. A landowner's liability under this Section shall be limited to the amount of funds received by the landowner from the surety providing the financial security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.

HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5119. Exemptions

A. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.

HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

§5121. Fees

A. ...

A.1. an application fee of no more than \$15 per acre for the total number of acres within the facility footprint as identified in the engineer's drawing required by Section 5113(C); and

A.2. ...

B. Beginning the year after a permit is issued, all designated operators shall pay the department an annual monitoring and maintenance fee each year until the facility is decommissioned in accordance with this Chapter. This fee is due by January 31 of each year and shall not exceed the amount of \$15 per acre for the total number of acres within the facility footprint as depicted in the engineer's drawing required by Section 5113(C) and within each revised decommissioning plan required by Section 5113(D).

C. Each fiscal year, the department shall calculate the total budgeted cost of administering the permitting process for solar power generation facilities. In any fiscal year, the monitoring and maintenance fee charged to designated operators shall not exceed their pro-rata share of the department's budgeted costs for implementing and administering these provisions.

D. All fees paid to the department shall be made payable via certified funds, bank money order, cashier's check, bank wire, or Automated Clearing House (ACH) transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1154.
HISTORICAL NOTE: Promulgated by the Department of Conservation and Energy, Office of the Secretary, LR 52:

Public Hearing

A public hearing on the substantive changes to the proposed Rule is scheduled for March 23, 2026, at 9:00 a.m., in the Griffon Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, to provide all interested persons an opportunity to submit data, views, comments, or arguments, orally or in writing. Written comments may be submitted by mail, addressed to Elizabeth Ferrier, Office of Legal Services, Department of Conservation and Energy, 12th Floor, Baton Rouge, LA 70802, or via email to DCE-Renewables@la.gov. The deadline for receipt of all written comments is March 23, 2026, at 4:30 p.m.

In accordance with the Americans with Disabilities Act, please contact C&E's ADA Coordinator, Maranda Risponse, at (225) 342-9088 or by email at Maranda.Risponse@la.gov within 10 working days of the hearing if you need assistance or accommodation.

Dustin Davidson
Secretary