

NOTICE OF INTENT

Department of Energy and Natural Resources Office of the Secretary

Regulation of Solar Power Generation Facilities (LAC 43:I.5101-5121)

The Department of Energy and Natural Resources, Office of the Secretary, in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, and under the authority of R.S. 30:1154 and Act 555 of the 2022 Regular Legislative Session, proposes to adopt LAC 43:I.5101-5121 to require permits to construct and operate solar power generation facilities and regulations governing the decommissioning and required financial security of such facilities. This proposed Rule is written in plain language in an effort to increase transparency.

Title 43 NATURAL RESOURCES Part I. Office of the Secretary Subpart 5. Solar Power Generation Facilities

Chapter 51. Solar Power Generation Facilities

§5101. Definitions

Abandoned—a solar power generation facility that has not generated power for 12 consecutive months.

Decommission—the minimum requirements for the removal and disposal of all solar devices, integrated equipment and materials of a solar power generation facility, and transmission and distribution infrastructure traversing from the facility to the point of interconnection.

Decommissioning Activities—is the collective performance of removal activities and restoration activities.

Department—the Department of Energy and Natural Resources or its successors.

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

Effective Date—the date of final promulgation of these rules and regulations.

Facility Footprint—the area within the perimeter of a solar power generation facility up to, but not including, any fencing, setback, buffer, greenspace or similar area, zoning requirements, or any combination thereof established by local government or contractual agreement(s). All

transmission and distribution infrastructure traversing from the facility to the point of interconnection are considered part of the facility footprint for decommissioning purposes regardless of measurement units.

Person—any natural person or legal entity, such as a corporation, partnership, or association, capable of owning property, entering into legally binding agreements, or taking on legal obligations under contract or law.

Removal Activities—the removal and disposal of all solar devices, integrated equipment and materials within the facility footprint, and any transmission and distribution infrastructure traversing from the facility to the point of interconnection.

Responsible Party—any person or legal entity that has whole or partial title to, equity in, control, or management of activities of a solar power generation facility.

Restoration—returning the immovable property where a solar power generation facility was sited to a reasonable pre-facility condition or the landowner’s desired alternative condition within all applicable 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. The secretary may consult with the department, the Coastal Protection and Restoration Authority, the Department of Agriculture and Forestry, the Department of Environmental Quality, the Department of Wildlife and Fisheries, 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—the actual or estimated scrap value of the raw materials once removed from the solar power generation facility and made available for sale at market value.

Secretary—the secretary of the department.

Solar Device—any photovoltaic, thermal, or other technology associated with the collection of solar energy to generate electricity, including but not limited to panels, arrays, and integrated wiring.

Solar Power Generation Facility (or “Facility”)—all solar devices and the integrated equipment and other materials necessary for or incidental to the operation of solar devices located within the facility footprint to distribute, transfer, or store electricity, including but not limited to concrete or metal foundations and structures; electrical transformers, inverters, and controllers; above- and underground wires and conduit; energy storage mediums; telecommunications equipment; roads; meteorological stations; switchyards; maintenance yards; and security fencing.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5103. Applicability

- A. These rules apply to all solar power generation facilities, or parts thereof, with a facility footprint of 10 acres or more located within the geographical boundaries of Louisiana. The facility footprint may be comprised of a single contiguous tract or multiple non-contiguous tracts.
- B. Nothing in this Chapter shall be construed as:
1. limiting the authority of the local government or the parties to a lease or other contractual agreement to establish and implement stricter requirements and obligations than those set forth in this Chapter;
 2. limiting the extent to which responsible parties and designated operators of facilities must comply with all other relevant federal, state, and local laws, rules, ordinances, and permit conditions; and
 3. requiring the department to enforce and monitor compliance with laws, regulations, and standards of other federal or state agencies.
- C. These rules are effective on and after the effective date.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5105. General Requirements for Solar Power Generation Facilities

- A. A solar power generation facility shall at all times have a designated operator, who shall be authorized by all responsible parties as the person responsible for compliance with all requirements of this Chapter and who acts on behalf of all responsible parties.
- B. The designated operator of a facility shall register with the department as set forth in Section 5107.
- C. No person shall construct 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 only pertain to the implementation of a decommissioning plan and the financial security required by Sections 5113 and 5115.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5107. Registration

A. The designated operator of a solar power generation facility shall register with the department before submitting a permit to construct or operate the facility. For facilities in operation before the effective date of these rules, the responsible parties shall assign a designated operator, who shall register with the department within 180 days of the effective date.

B. The designated operator shall submit to the department a completed registration form provided by the department, along with all necessary documentation required by the form.

C. All designated operators shall renew their registration and verify the information required therein by January 31 of each year until decommissioning activities are complete. The designated operator shall notify the department in writing within 60 days of any sale, transfer, or assignment of any responsible party's interest in a facility.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5109. Permit Requirement

A. As a prerequisite to the permit application, the designated operator of a proposed solar power generation facility shall:

1. Provide notice in writing to all landowners whose immovable property adjoins the proposed facility, the Department of Transportation and Development, the Department of Agriculture and Forestry, and the police jury or council of all parishes located within one mile of the boundary of the proposed facility. The written notice shall include a general description of the proposed facility, including its location, the projected facility footprint and capacity, the location of all routes of ingress and egress, and the location of all electric transmission infrastructure related to the facility; and

2. Publish notice of the proposed facility in the state and parish journal(s) where the facility will be located.

B. The designated operator of a facility shall submit an administratively complete permit application to the department. The designated operator of a facility in operation before the effective date of these rules shall have one year from the effective date to submit an administratively complete permit application. An administratively complete permit application shall include:

1. a copy of the designated operator's completed registration form and all documentation required therein;

2. a completed permit application form adopted by the secretary;

3. a detailed map of the facility that includes, to the extent practicable, the location of all solar devices, the dimensions of the facility footprint, and any required setback, buffer, and zoning requirements;

4. a decommissioning plan prepared in accordance with all requirements of this Chapter;
5. proof of financial security payable to the department in an amount and form acceptable to the secretary;
6. if the immovable property where the facility is to be constructed and operated is subject to lease(s) or other contractual agreement(s) conveying the right to construct and operate the facility:
 - a. the name, mailing address, email address, and phone number of all landowners; and
 - b. a copy of all leases, agreement(s), or notice(s) conveying rights to construct or operate the facility and any documents evidencing recordation in the public records;
7. a sworn affidavit signed by the designated operator certifying that written notices were provided in accordance with Paragraph (A)(1) and copies of each notice;
8. proof of publication of the notice(s) in the state and parish journal(s) in accordance with Paragraph (A)(2);
9. payment to the department of the application fee and application processing fee; and
10. any other information required by the department.

C. Within 90 days of receiving a permit application, the department shall make a finding and issue written notice to the designated operator as set forth below.

1. If the department finds that the application contains all information and meets all requirements of this Chapter, the department shall issue a written notice to the designated operator certifying that the application is administratively complete.

2. If the department finds that the application is not administratively complete, the department shall issue a written notice identifying all missing or deficient information required for approval and set a deadline by which the designated operator must submit all items identified in the notice. The deadline specified by the department shall be no less than 30 days and no greater than 90 days from the date on which designated operator receives the notice. Failure to correct the information identified in the notice in a timely manner shall constitute abandonment of the application process.

D. When the department finds a permit application is administratively complete, the department shall issue notice of the application and the facility's location, its production capacity, and the identity of the responsible parties to the police jury or council of all parishes located within one mile of the facility. The department shall also publish the notice and instructions for submitting public comment and requesting a public hearing in the state and parish journal(s) and on its website. Public comments and requests for a hearing may be submitted to the department within 30 days after the date a permit application notice is published.

E. The department may hold a public hearing concerning an administratively complete permit application. All hearings determined to be necessary by the secretary shall be nonadjudicatory public proceedings conducted to acquire information and afford the opportunity for public comment. Hearings shall be held 30 to 90 days after the public comment and hearing request period closes.

1. If the secretary determines a public hearing is necessary, the department shall notify the designated operator, the affected parish(es), and all persons who requested a hearing. The department shall advertise notice of the hearing in the state and parish journal(s) and on its website at least 30 days before any public hearing.

2. If the secretary determines that no hearing will be held, public notice of the secretary's decision shall be given.

F. The designated operator shall update the permit application with the department within 30 days of any material change.

G. A permit issued by the department pursuant to this Chapter shall expire within 3 years of the date of issuance, unless construction of the facility or power generation has commenced.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5111. Generation Reporting Requirements

A. The designated operator shall submit quarterly production reports to the department with records itemizing the amount of electricity in megawatt-hours (MWh) generated and sold by the solar power generation facility, both since the prior reporting period, if applicable, and on aggregate since commencement of operations.

B. The designated operator shall submit each production report no later than 30 days after the end of the calendar quarter.

C. The quarterly production reporting schedule for the calendar year is: for the period from January 1 through March 31, due by April 30; for the period from April 1 through June 30, due by July 31; for the period July 1 through September 30, due by October 31; and for the period October 1 through December 31, due by January 31.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR LR 51:

§5113. Decommissioning Requirements

A. All solar power generation facilities shall be decommissioned in accordance with this Chapter, except those exempt pursuant to Section 5119. Decommissioning shall include all removal activities and restoration activities unless otherwise provided herein.

B. All facilities shall be decommissioned within the time provided in the approved decommissioning plan and in no case later than 18 months after its final day of power generation. The designated operator shall notify the department in writing 30 days after the facility's final day of power generation.

1. A facility shall be presumed to have reached its final day of power generation and considered abandoned if the facility has not generated power for 12 consecutive months. A responsible party or the landowner may rebut the presumption by providing written notice to the department showing good cause therefor and, if applicable, providing a proposed timeline for recommencement of power generation.

2. If the department determines that good cause was shown, it shall issue a written finding regarding the status of the facility and, if applicable, establish a deadline to comply with the rules of this Chapter.

3. If the department determines that good cause was not shown, it may instruct the designated operator to proceed with decommissioning. If the designated operator fails to commence decommissioning activities within 30 days after being instructed, the department may commence decommissioning itself in accordance with the rules of this Chapter.

C. Decommissioning Plan. A facility's decommissioning plan shall comply with the following requirements:

1. Preparation. The plan must be prepared, signed, and sealed by a professional engineer who is licensed to do business in Louisiana.

2. Facility Description. The plan shall include the following information and any other information required by the department regarding the subject facility:

a. the location of the facility, the total number of acres within the facility footprint, the facility's megawatt (MW) capacity for generation and storage, and the expected life of the facility;

b. an itemized inventory of all solar devices, equipment, and component parts used or planned to be used in the facility's operations;

c. a detailed map of the facility footprint that illustrates the anticipated or actual location of all solar devices, equipment, and component parts used or planned to be used in the facility's operations; all routes of ingress and egress; and all applicable setbacks and zoning requirements; and

d. a description of the historical and current use(s) of the land and all site work performed or planned to be performed as part of the construction or operation of the facility.

3. Decommissioning Schedule. The plan shall include a statement of the anticipated sequence of removal activities and restoration activities and the anticipated period of time needed to complete them.

4. Decommissioning Activities. The plan shall include a detailed statement regarding the anticipated labor and equipment needed to complete the required removal activities and restoration activities.

5. Waste Management. The plan shall identify all solar devices, equipment, component parts, and other materials making up the facility that are hazardous wastes and provide a detailed plan for disposal in accordance with applicable laws and regulations.

6. Landowner's Preferences. The plan shall include all information required in Subsection (E) if the designated operator is granted a full or partial exemption from the decommissioning activities required herein.

7. Decommissioning Cost Estimate. The plan shall provide an itemized schedule estimating, to the extent practicable, all costs necessary for or incidental to decommissioning as required by this Chapter. The estimate may be adjusted throughout the facility's operational life and should include the landowner's preferences. The department shall determine the formula for calculating the estimate. The decommissioning cost estimate shall include the following in an itemized format:

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

b. the gross salvage value of the solar devices, integrated equipment, and other materials associated with the facility; and

c. the net decommissioning cost.

d. If the financial security instrument is a performance bond, an irrevocable letter of credit, or both, a contingency rate, which is an increase of the gross cost by a percentage determined by the department, shall be added to the net decommissioning cost. The contingency rate accounts for the margin of error inherent in estimations and allows for flexibility in responding to unexpected decommissioning costs.

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

9. 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 of any modification to the facility that is estimated to increase or decrease the cost of

decommissioning by 10 percent or more. Revised decommissioning plans shall be prepared in accordance with Paragraph (C)(1) and include all relevant adjustments to the cost estimate and the salvage value estimate.

E. The secretary may authorize a full or partial exemption from the decommissioning activities required in Subsection (A).

1. Where the proposal significantly varies from the default decommissioning activities and alters the estimated decommissioning cost by greater than 10 percent, the secretary may require public notice of the proposal and a hearing in accordance with Section 5109(D) and (E) before issuing a decision.

2. To obtain this exemption, a designated operator shall submit a request to the secretary that includes the following information:

a. a written document, signed by the landowner and two witnesses, evidencing the landowner's consent to the alternate decommissioning plan;

b. written justification for the exemption, including but not limited to any potential economic, environmental, or personal benefits to the landowner and neighboring tracts of land;

c. a detailed written description and illustrative map(s) evidencing the condition of the land after the alternative decommissioning activities; and

d. any other information required by the secretary.

3. The department shall review the request to determine whether the proposal would result in any adverse impacts that would impede compliance with this Section. The secretary shall issue a written notice approving, rejecting, or modifying the proposal within 45 days of receipt. The designated operator may modify the facility's decommissioning plan and financial security instrument to reflect the approved or modified decommissioning plan.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5115. Financial Security Requirements

A. The designated operator of a solar power generation facility shall establish and submit financial security to the department 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 are limited to one or a combination of the following instruments:

1. performance bond;
2. irrevocable letter(s) of credit; and/or
3. cash payments to the department.

C. The designated operator shall meet the financial security requirement of this Section according to the following requirements:

1. Performance Bond. Submitting to the department a performance bond in an amount equal to 100 percent of the decommissioning cost estimate as set forth in Section 5113(C)(7). The performance bond must name the department as the beneficiary. The department will not release the bond until it receives proof that the facility was fully decommissioned as required by this Chapter. To ensure that the performance bond is properly maintained, the designated operator shall provide the department with written notice at least 120 days before the expiration of the existing bond. The designated operator must submit a replacement performance bond consistent with the requirements of this Chapter no later than 60 days before the expiration of the existing bond. Failure to provide a replacement performance bond before this 60-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 performance bond, and any other remedy authorized by law.

2. Irrevocable Letter(s) of Credit. Submitting to the department an irrevocable letter(s) of credit that equal to 100 percent of the decommissioning cost estimate as set forth in Section 5113(C)(7). The letter(s) of credit must name the department as the beneficiary. The department will not release the letter(s) until it receives proof that the facility was fully decommissioned as required by this Chapter. To ensure that the letter(s) of credit is properly maintained, the designated operator shall provide the department with written notice at least 120 days before the expiration of the existing letter(s). The designated operator must submit a replacement letter(s) of credit consistent with the requirements of this Chapter no later than 60 days before the expiration of the existing letter(s). Failure to provide a replacement letter(s) of credit before this 60-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 letter(s) of credit, and any other remedy authorized by law.

3. Cash Payments. Making cash payments to the department each calendar quarter, as referenced in Section 5111, based on the amount of MWhs generated by a facility. The contribution rate, or fixed dollar amount, of cash payments per MWh shall be determined by the Natural Resources Trust Authority. Upon receipt of proof that the facility was fully decommissioned as required by this Chapter, a certain percentage of the amount paid, as determined by the Natural Resources Trust Authority, shall be returned to the designated operator and the remainder shall be used by the department to decommission facilities that are abandoned or have not been decommissioned in accordance with this Chapter.

D. During a facility's operational life, the financial security required by this Chapter may be adjusted annually by a minimum of two percent, unless specified otherwise, by the department to

account for inflation and the estimated decommissioning cost provided in a facility's revised decommissioning plan as required by Section 5113(D).

E. The salvage value of solar devices, integrated equipment, and other materials associated with a facility may be deducted from the decommissioning cost estimate during the bankruptcy of the designated operator if the designated operator provides the department with a lien of first priority in an amount equal to the value of the salvageable materials as itemized in the decommissioning plan, and the department determines the salvageable materials are available during decommissioning.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5117. Enforcement

A. The submission of an administratively complete permit application shall serve as an acknowledgment and agreement by the designated operator, responsible parties, and landowners that the department, upon proper identification and notice, may enter the immovable property where the solar power generation facility is located for purposes of site inspection and decommissioning activities.

B. Failure of the designated operator to comply with all requirements set forth in this Chapter may result in the department taking appropriate enforcement actions, including but not limited to the non-issuance or revocation of a facility's permit and, pursuant to R.S. 30:1154(F), the secretary may enjoin the designated operator or a responsible party for violating any regulation set forth in this Chapter.

1. The department shall send notice of noncompliance to the designated operator or all responsible parties by certified mail, return receipt requested, that sets forth the nature of the violations, the actions necessary to correct the violations, the date by which corrective actions should be taken and completed, and the department's intended actions upon failure to correct the violation.

2. The designated operator and all responsible parties agree that a violation may be enforced, restrained, corrected, or abated, without limitation, by any such judicial remedy, without the necessity of the department proving irreparable harm or furnishing bond or other security and with the department, should it prevail in whole or in part, being entitled to recover reasonable attorney's fees and costs.

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.

1. Where the financial security instrument(s) is a performance bond, an irrevocable letter(s) of credit, or a combination thereof, and the 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.

2. Where the financial security instrument are cash payments, and the payments allocated by the Natural Resource Trust Authority for decommissioning the facility are insufficient to fully fund the decommissioning activities, the department may seek reimbursement from the designated operator for any funds expended by the department to complete decommissioning activities.

3. Where the department holds a lien of first priority for the salvage value of the solar devices, integrated equipment, and other materials associated with a facility, the landowner shall permit the department to enter the immovable property to access and retrieve the items to be salvaged as permissible by right.

D. The department may seek to recover any additional costs incurred by the department and any other relief from the current and any prior designated operator, responsible party, or both pursuant to any applicable laws, regulations, or orders by a court of competent jurisdiction.

E. At the time of decommissioning, all designated operators, responsible parties, their predecessors, or any combination thereof, are jointly and severally liable for compliance with all obligations and provisions of the lease or other contractual agreement(s) and the decommissioning plan.

F. The landowner will be considered a responsible party and subject to Paragraphs (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 Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5119. Exemptions

A. Solar power generation facilities owned by an electric utility provider and regulated by the Public Service Commission or the Council of the city of New Orleans are exempt from the requirements of Sections 5109–5115 of this Chapter when either of the following conditions are met:

1. the facility is located on land owned by the electric utility provider, and the provider is capable of demonstrating a decommissioning plan to the applicable regulator; or

2. the facility is located on land leased by the electric utility provider, as long as:

a. the provider guarantees to the landowner, in a form and manner acceptable to the secretary, that it will pay for all decommissioning costs consistent with the requirements of Section 5113; and

b. the lease includes a provision(s) providing for site decommissioning at the end of the facility's life, at the termination of the lease, as determined by a court of competent jurisdiction, or upon any other circumstances requiring closure of the facility.

B. To qualify for this exemption, all electric utility providers shall register with the department as set forth in Section 5107 and provide documentation proving ownership of the facility and that it is regulated by the Public Service Commission or the Council of the city of New Orleans, as well as evidence that the elements of Paragraph (A) above are met.

1. Evidence meeting the elements of Paragraph (A)(1) includes:

a. a copy of any purchase agreement or other document demonstrating the provider has complete ownership of the land where the facility is or will be located; and

b. proof that the provider is capable of demonstrating a decommissioning plan to the applicable regulator.

2. Evidence meeting the elements of Paragraph (A)(2) includes:

a. a copy of the lease that:

i. grants the provider the authority to construct and operate a facility on the leased acreage; and

ii. contains a provision(s) providing for site decommissioning at the end of the facility's life, at the termination of the lease, as determined by a court of competent jurisdiction, or upon any other circumstances that require closure of the facility; and

b. a written guarantee to the landowner that the provider will pay for all decommissioning costs described in Section 5113.

C. In the event a facility is no longer exempt pursuant to this Section, due to a transfer in ownership or any other reason, the designated operator or a responsible party shall have 60 days from the date from the event causing said status change to comply with the requirements of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

§5121. Fees

A. Pursuant to Section 5109(B), the designated operator of a solar power generation facility shall pay to the department the following fees:

1. an application fee of \$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
2. an application processing fee of \$500.

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(C).

C. 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.

D. 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.

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

HISTORICAL NOTE: Promulgated by the Department of Energy and Natural Resources, Office of the Secretary, LR 51:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. The department anticipates that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972(B). In particular, the proposed Rule has no known or foreseeable impact on:

1. The effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family.
4. The effect on family earnings and family budget.
5. The effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule.

Poverty Impact Statement

The department anticipates that this proposed Rule should not have any known or foreseeable impact on any child, individual, or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. The effect on household income, assets, and financial security.
2. The effect on early childhood development and preschool through postsecondary education development.
3. The effect on employment and workforce development.
4. The effect on taxes and tax credits.
5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:974.5, the Regulatory Flexibility Act, have been considered by the department. The proposed Rule is not expected to have a significant adverse impact on the health, safety, environmental or economic welfare of small businesses; therefore, a Small Business Economic Impact Statement as required by R.S. 49:974.4 has not been prepared.

Provider Impact Statement

The department anticipates that the proposed Rule should not have any known or foreseeable impact on providers as defined by House Concurrent Resolution No. 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons and members of the public may submit written comments on the proposed rule by no later than Tuesday, January 21, 2025, at 4:30 p.m. Written comments should be addressed to Morgan Rogers, Attorney, Office of the Secretary, Department of Energy and Natural Resources, 617 North Third Street, 12th Floor, Baton Rouge, LA 70802 or via email to [dnrsolarreg@la.gov](mailto:dnr solarreg@la.gov). Please reference “Solar Power Generation Facility Decommissioning Regulations” in your comments and include your name and whom you represent, if someone other than yourself.

Public Hearing

A public hearing will be held on Tuesday, January 28, 2025, 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. In accordance with the Americans with Disabilities Act, if you need assistance or accommodation for the meeting, please contact DENR's ADA Coordinator, Clarissa Adams, at (225) 219-3853 or via email at Clarissa.Adams3@la.gov within 10 working days of the hearing date.

Tyler Gray
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation of Solar Power Generation Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase costs to the Department of Energy and Natural Resources (DENR) associated with the two positions and their associated operating costs in the solar program. The proposed rule introduces fees and financial instruments on solar facilities, and to decommission the facilities in the event they become abandoned. The proposed new rule is estimated to cost \$304,511 in FY 25, \$310,602 in FY 26, and \$316,814 in FY 27.

The proposed rule sets forth registration and operating permit requirements for certain utility-scale solar facilities, primarily concerning decommissioning and financial security requirements. The proposed rule grants DENR the authority to decommission solar facilities that are abandoned or not decommissioned in accordance with these regulations. The solar program is anticipated to be fully operational by the third quarter of FY 25. The program is funded through permit fees in conjunction with the Mineral and Energy Operation Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will increase revenue for the state through the implementation of new fees, DENR anticipates it will receive approximately \$154,260 from permit application and processing fees in FY 26 and \$212,060 in FY 27. Additionally, the proposed rule provides the option of cash payments to DENR as an acceptable form of financial security on solar facilities which will be deposited into the Mineral and Energy Operation Fund.

Revenues within the Mineral and Energy Operation Fund are expected to increase over time after the proposed rule is promulgated. Revenues to the Mineral and Energy Operation Fund are generated from permit fees. The proposed rule sets permit fees at the maximum amount permitted by La. R.S. 30:1154: a permit application fee of \$15 per facility footprint acre; a \$500 permit application processing fee; and an annual monitoring and maintenance fee of \$15 per facility footprint acre. These fees are deposited in the Mineral and Energy Operation Fund. Based on publicly available information, all solar facilities currently and expected to be in operation in FY 25 have a total capacity of 1,667.4 Megawatt (MW)s and are sited on approximately 9,884 acres.

If the proposed rule is promulgated by mid-FY 25, all solar facilities will be required to obtain a permit by mid-FY 26.

There is no anticipated effect on revenues of local governmental units from the proposed regulations.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule affects any entity that is associated with ownership or operational control over solar facilities. The cost of obtaining the required decommissioning plan and financial security that is imposed on owners/operators of these facilities is difficult to quantify as the size and complexity of each facility varies. The decommissioning plan may provide economic benefits to the local community where a facility is sited, as new jobs may become available for engineers and construction crews.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have positive effects on competition and employment within local communities. The decommissioning plan may create competition for local engineers and generate construction/demolition jobs when facilities close, but quantifiable predictions are not available at this time due to limited information on current and proposed solar facilities.

Tyler Gray
Secretary

Legislative Fiscal Officer
Legislative Fiscal Office