



Gulf States Renewable Energy Industries Association

Louisiana Department of Natural Resources Leadership,

The following recommendations touch upon the various topics of concern raised during the 2021 Regular Legislative Session and subsequent public comment hearings. Those areas include decommissioning bonds, offsets, land maintenance, and vegetative barriers. The recommendations of Gulf States Renewable Energy Industry Association are based upon industry members experience in other markets throughout the U.S. Our recommendations are intended to strike a balance that guarantees solar developers and landowners act as good stewards of Louisiana land, act as trusted and good intended neighbors of our residents, but also lead to rulemaking that does not kill an emerging and vital industry to our state economy. Please reach out to us with questions or interest in elaboration on any of the following topics.

Decommissioning Bonds:

Relevant states with best practice statutory language or existing decom/impact agreements:

- Texas: <https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00760F.pdf#navpanes=0>
 - Texas decommissioning and financial assurance instrument language is well designed. It lists several allowable forms of financial assurance and allows projects to pick whichever works best for them. “A solar power facility agreement must provide that the grantee shall obtain and deliver...evidence of financial assurance that...secure(s) the performance of the grantee’s obligation to remove the grantee’s solar power facilities located on the landowner’s property...acceptable forms of financial assurance include a parent company guaranty with a minimum investment grade credit rating agency, a letter of credit, a bond, or another form of financial assurance reasonably acceptable...”
 - However, unlike Texas, the decommissioning plans and financial assurance typically is posted with the county or parish of jurisdiction, not the landowner. Although the landowner may be named.
- Illinois:
[https://www2.illinois.gov/sites/agr/Resources/AIMA/Documents/Std%20Solar%20AIMA.p
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- Illinois has a financial insurance schedule over the life of a system outlined in this agreement:
 - On or before the first anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover ten (10) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan.
 - On or before the sixth anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover fifty (50) percent of the estimated costs of Deconstruction of the Facility as determined in the Deconstruction Plan.
 - On or before the eleventh anniversary of the Commercial Operation Date, the Facility Owner shall provide the County with Financial Assurance to cover one hundred (100) percent of the estimated costs of Deconstruction of the Facility as determined in the updated Deconstruction Plan provided during the tenth year of commercial operation. The Financial Assurance shall not release the surety from liability until the Financial Assurance is replaced. The salvage value of the Facility may only be used to reduce the estimated costs of Deconstruction if the County agrees that all interests in the salvage value are subordinate or have been subordinated to that of the County if Abandonment occurs.

Key Industry Recommended Considerations for Decommissioning Bonds:

- The amount of financial assurance for the decommissioning plan must be equal to the cost of decommissioning the project, minus the facility's salvage value.
- These costs should be determined by a third-party professional engineer, paid for by the developer of the project
- The cost calculation should be reassessed periodically to ensure it remains accurate over the lifetime of the project.
- Financial assurance may be in the form of a bond, parent company guarantee, letter of credit, , or an escrow account, along with any other forms deemed acceptable by the Parish of jurisdiction or the state of Louisiana.

Offsets:

- In general, any offset should not be overly restrictive on solar development beyond any other types of developments on ag land. If existing offsets exist between construction projects of comparable size and scope, then those same offset should apply.
- If DNR chooses to rigidly define such offsets, an industry standard average would be roughly: (These are maximum recommended offsets from experiences in other states, local governments and landowners may choose an appropriate offset under this ceiling.)
 - All offsets below should be to the nearest solar panel edge (array), not fence line, roads, communication lines, above or below ground collector, screening or other project equipment.

- 50 feet from property line of any nonparticipating property (leaseholder, good neighbor agreement, or otherwise)
- 150 feet from nearest outer wall of a dwelling of nonparticipating property
- Separate offsets could be permitted by rule in regards to inverters/substations.
- 50 feet from outside edge of the right of way (would be easier to implement than center of roadway)

Land Maintenance

- A recent study (link: <https://www.sciencedirect.com/science/article/pii/S2212041620301698>) suggests that even regular turf grass may be of benefit to erosion control, water retention, etc. Especially in areas where solar systems are constructed where there has been prior human-caused erosion i.e. agriculture sites.
- Solar native grassland planting may be cost prohibitive and regionally specific. If solar native grassland planting is considered, a variety of factors should also be considered, such as:
 - Cost of seed mix and seedling establishment.
 - Vegetation height restrictions.
 - Cost of seed and plant maintenance.
- [Indiana](#) introduced legislation this year recommending the following: The project owner shall plant, establish, and maintain for the life of the commercial solar energy system perennial vegetated ground cover on the ground around and under the solar panels, and in the project site buffer areas. The use of pollinator seed mixes in the planting of ground covered is encouraged. A unit or permit authority may require a project owner to prepare a vegetation management plan that: (1) is compatible with each CSE system on the project site; (2) provides for the planting of noninvasive species and the use of native or naturalized species if the planting and use of noninvasive and native or naturalized species are: (A) appropriate to the region; (B) economically feasible; and (C) agreed to by the landowner...in order to reduce storm water runoff and erosion at the site and to provide habitat for wildlife and insects; and (3) provides for the site preparation and maintenance practices designed to control invasive species and noxious weeds.”

Vegatative Barriers

- To the extent that there are vegetative barriers required, we recommend that any guidelines regarding their construction be consistent with any guidance on native planting or otherwise.
- VA Pollinator program assigns a point value to percentages of native plants used for screening zones. While we don't recommend a “scorecard”, perhaps a way to offset native plant requirements could be through planting a percentage of that in a screening

zone. (Manual: <https://www.dcr.virginia.gov/natural-heritage/document/solar-site-comprehensive-manual.pdf>)

- If a solar array (panels) is within 250 feet of a nonparticipating property dwelling, school, or church, the project owner shall install up to 300 linear feet of visual/vegetative screening.
- Vegetative screening should not be used as the starting point for offsets--they can be within a offset. Vegetative screening can be achieved by retaining existing plants or installing new plants.
- Best Practices by Industry in Other States Includes:
 - Staggered plants (versus a flat hedgerow),
 - Plant diversity: 3-5 different regionally appropriate evergreens,
 - Plant spacing roughly 10 feet apart,
 - Roughly 2-4 feet tall when planted (access to taller specimens in sufficient quantities is often not available), probably not taller than 20 feet at maturity (often options specified by landscaping engineers grow to 8 feet).

Drainage

- Louisiana's geography leads to relevant and necessary concerns regarding project drainage rules. GSREIA is not opposed to such rules but does request that any such rulemaking be no more burdensome than those opposed on other agricultural projects of the same scope and impact.