

101. Definitions

Department – means the Louisiana Department of Natural Resources

Person – means any natural person or any 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.

Secretary – means the Secretary of the Louisiana Department of Natural Resources

Solar Power Generation Facility – means one or more solar devices and any facility or equipment used to support the operation of the solar devices, including any underground or above ground electrical transmission or communications line located within the footprint of the facility, an electric transformer, a battery storage facility, an energy storage facility, telecommunications equipment, a road, a meteorological tower, or a maintenance yard.

103. Applicability

- A. These rules apply to all Solar Power Generation Facilities with a footprint of ten (10) acres or more located within the geographical boundaries of Louisiana.
- B. Compliance with the requirements of this Chapter shall not release owners or operators from the requirement to comply with all other applicable federal, state, or local laws, rules, ordinances, or permit conditions.
- C. These rules are effective on and after June 30, 2024.

105. General Requirements for Solar Power Generation Facility

- A. Except in the case of those Solar Power Generation Facilities exempt pursuant to subsection 111(A), no person shall construct or operate a Solar Power Generation Facility without holding a permit issued pursuant to these rules. A permit issued pursuant to this Chapter shall only pertain to the implementation of the decommissioning plan and financial security required by subsection (C) of this section.
- B. In order to receive a permit the owner or operator of an existing or proposed Solar Power Generation Facility shall first submit an administratively complete application to the Secretary.
- C. A complete application includes:
 - 1. Completed application document adopted by the Secretary.
 - 2. A map of the Solar Power Generation Facility, including measurements of the facility's footprint measured from the edge of the installed equipment and related structures.
 - 3. A decommissioning plan completed by a licensed Louisiana engineer.
 - 4. A cost estimate to carry out the decommissioning plan required in subsection (C)(3) completed by a licensed Louisiana engineer.
 - 5. Financial security payable to the Department in the amount and form acceptable to the Secretary.

6. Payment to the Department of the Application Fee and Application Processing Fee.
7. Any other information deemed necessary by the Department.

D. Upon receipt of an administratively complete application, the Department shall have sixty (60) days to either approve the application and issue a permit or to issue the applicant a notice of deficiencies spelling out what changes or additional information are required to be issued a permit. Upon issuance of a notice of deficiency, the applicant has sixty (60) days to make the changes or provide the necessary information. Failure of the applicant to provide the necessary changes or additional information within the sixty (60) days shall constitute an abandonment of the application process. Once abandoned, a new application must be filed with the Department in order to receive a permit.

E. Except in the case of those Solar Power Generation Facilities exempt pursuant to subsection 111(A), all Solar Power Generation Facilities shall be decommissioned in accordance with this Chapter.

F. All permit holders shall update their information with the Department if any of the information set forth in their permit or their administratively complete application changes. They shall have sixty (60) days from such change to provide the Department with the updated information.

107. Decommissioning Requirements

A. Decommissioning. Except in the case of those Solar Power Generation Facilities exempt pursuant to subsection 111(A) All Solar Power Generation Facilities shall be fully decommissioned in accordance with its approved decommissioning plan but in no case later than eighteen (18) months after its final day of power generation. In the event a Solar Power Generation Facility does not have an approved decommissioning plan, then the Solar Power Generation Facility shall meet the following decommissioning requirements. All equipment and component parts of the Solar Power Generation Facility shall be removed from the property and properly disposed of, recycled or reused. In the absence of any requirements by the applicable parish government or the landowner to the contrary, the land on which the Solar Power Generation Facility once stood shall then be graded to match the surrounding property elevation and shall be revegetated with local vegetation similar to native vegetation located within a mile radius of the facility boundary.

B. Decommissioning Plan and Cost Estimate.

1. As part of the application, a decommissioning plan setting forth the specific work needed to decommission the Solar Power Generation Facility in accordance with the requirements found in subsection A of this section, to also include the specific timing of such work, shall be prepared by a licensed Louisiana engineer and submitted to the department.

2. As part of the application, a cost estimate to perform the work set forth in the decommissioning plan required in subsection B.1 herein shall be prepared by a licensed Louisiana engineer and submitted to the department.

3. Salvage value may be deducted from the cost estimate required in subsection B.2 only if the secretary determines that the materials to be salvaged are available in decommissioning during a bankruptcy of the Solar Power Generation Facility owner or operator. In order for salvage value to be deducted, proof that the material to be salvaged is available in decommissioning during a bankruptcy of the owner or operator shall be provided. Following review of the submitted proof, the Secretary makes

a finding in writing whether the owner or operator has submitted sufficient proof that such materials will be available in decommissioning during bankruptcy of the owner or operator. If the Secretary finds that such materials will be available in decommissioning during bankruptcy of the owner or operator, then the cost estimate for decommissioning the Solar Power Generation Facility shall be reduced by the salvage value amount. If the Secretary determines that such materials will not be available in decommissioning during bankruptcy of the owner or operator, then the cost estimate for decommissioning the Solar Power Generation Facility shall not be reduced by the salvage value amount.

4. The decommissioning plan and cost estimate required by this subsection shall be updated and submitted to the department at least once every five years or more frequently when the Solar Power Generation Facility is modified in a manner that is estimated to increase the decommissioning cost by ten percent or more.

109. Financial Security Requirements

A. The owner or operator registered with the department is required to submit, as part of its application, a financial security instrument acceptable to the Secretary and payable to the Department in an amount equal to one-hundred percent (100%) of the cost estimate required by section 107. The financial security required under this section shall secure and be callable due to failure to meet the following:

1. Substantial compliance with this Chapter and with La. R.S. 30:1154;
2. Compliance with any permit issued or enforced pursuant to this Chapter or La. R.S. 30:1154.
3. Compliance, as determined by a court of competent jurisdiction, with provisions of the property lease for the exploration, development, and production of solar energy on which the facility is located and that the violation would require closure of the facility; and
4. Failure to provide acceptable financial security, in accordance with this Chapter, at least sixty (60) days prior to any current financial security required by this Chapter expiring.

B. The following financial security instruments in a form acceptable to the secretary meet the requirements of this section:

1. Performance bond;
2. Letter of credit; and
3. Any other form approved by the Secretary after public notice and opportunity for public comment.

C. Any increase in the estimated decommissioning costs for a Solar Power Generation Facility requires an updated financial security instrument for the increased amount. Such increased financial security shall be submitted to the Department within thirty days of the cost estimate increase being submitted to the department. Failure to submit or maintain financial security in the amount required by this section shall be deemed a violation of these rules and subject the owner or operator of the Solar

Power Generation Facility to permit cancellation, the calling of the financial security instrument, and any other remedy authorized by law.

D. In order to ensure that financial security required by this Chapter is properly maintained, the owner/operator shall provide the department with written notice at least one-hundred-twenty (120) days prior to any existing financial security required by this Chapter expiring. The Owner/Operator must submit replacement financial security consistent with the requirements of this Chapter no later than sixty (60) days prior to the expiration of existing financial security. Failure to provide replacement financial security prior to this sixty (60) day period shall be deemed a violation of these rules and subject the owner or operator of the Solar Power Generation Facility to permit cancellation, the calling of the financial security instrument, and any other remedy authorized by law.

111. Exemptions

A. 1. The following solar power generation facilities that are owned by an electric utility provider regulated by the Public Service Commission or regulated the Council of the city of New Orleans do not need to meet the requirements of sections 105 – 109 or 113 of this Chapter:

a. Solar Power Generation Facilities located on land owned by the electric utility provider and the provider is capable of demonstrating a decommissioning plan to either the Public Service Commission or the council of the city of New Orleans, whichever is applicable.

b. Solar Power Generation Facilities located on land leased by the electric utility provider and that meet both of the following conditions:

i. The regulated electric utility provider guarantees to the landowner or the lessor that the regulated electric utility provider will pay the cost of a decommissioning plan consistent with the requirements of subsection 107(B)(1) and the guarantee is in a form and manner acceptable to the Secretary, which the Secretary shall determine in writing.

ii. The lease between the landowner or lessor and the regulated electric utility provider provides 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, and upon other circumstances that require closure of the facility.

2. All entities claiming exemption under this subsection, shall submit in writing to the Secretary a written statement explaining how they meet this exemption plus documentary evidence proving each necessary element of the applicable exemption. Among other items, the following documentation may be submitted to the Secretary or may be required by the Secretary to be submitted if missing in order to prove that a Solar Power Generation Facility meets the exemptions under this subsection:

a. Proof that the owner is a regulated electric utility provider; and either

b.i. A copy of any purchase agreement or other document evidencing that the owner of the solar power generation facility has complete ownership of the necessary rights for the land on which the Solar Power Generation Facility is to be located; and

ii. Proof that the regulated electric utility provider has demonstrated a decommissioning plan to either the Public Service Commission or council of the city of New Orleans; or

c.i. A copy of any lease or similar agreement giving the solar power generation facility owner authority to access and use the land for purposes of constructing and operating the solar power generation facility; and

ii. Written guarantee to the landowner or lessor that the regulated electric utility provider will pay the cost of a decommissioning plan consistent with the requirements of subsection 107(B)(1).

d. A copy of the decommissioning plan referenced in either subsection (A)(2)(b) or (c) of this section.

B. 1. Any Solar Power Generation Facility that is certified by the Public Service Commission or the council of the city of New Orleans on or before August 2, 2022, shall be exempt from the fees provided in section 113; but they shall register with the department by January 1, 2023, and comply with the remainder of the requirements of this Chapter, with the exception that they may provide proof of financial security provided in favor of a landowner or lessor in place of separate financial security payable to the department.

2. All entities claiming exemption under this subsection, shall submit in writing to the Secretary a written statement explaining how they meet this exemption plus documentary evidence proving each necessary element of the applicable exemption. Among other items, the following documentation may be submitted to the Secretary or may be required by the Secretary to be submitted if missing in order to prove that a Solar Power Generation Facility meets the exemptions under this subsection:

a. Proof of certification by the Public Service Commission or the Council of the city of New Orleans on or before August 2, 2022.

b. Proof of Financial Security provided in favor of a landowner or lessor.

c. Proof of compliance with the remainder of this Chapter.

C. In the event a Solar Power Generation Facility is no longer exempt pursuant to this section, due to a transfer in ownership or any other reason, then the owner or operator shall have sixty (60) days from the date from the event causing the change in status in order to comply with the provisions of this Chapter.

113. Fees

A. All owners or operators of a Solar Power Generation Facility shall pay to the department by [DATE] of each year from the date of submission of their application until their Solar Power Generation Facility is decommissioned in accordance with this Chapter, an annual monitoring and maintenance fee in the amount of [\$\$\$] per acre for the total footprint of their Solar Power Generation Facility as identified in the engineer's drawing required by section 105.

B. At the time of submission of an application pursuant to section 105, all applicants shall pay to the department in the form of a cashier's check the following fees:

1. An application processing fee in the amount of \$500;
2. An application fee in the amount of [\$\$\$] per acre for the total footprint of the Solar Power Generation Facility's footprint as identified in the engineer's drawing required by section 105.

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