Outlook

Legislative Report - Proposed Regulation of Solar Power Generation Facilities (LAC 43.I.5101-5121)

From Elizabeth Ferrier <Elizabeth.Ferrier@la.gov>
Date Mon 6/1/2026 12:59 PM
To apa.senatepresident@legis.la.gov <apa.senatepresident@legis.la.gov>; apa.housespeaker@legis.la.gov <apa.housespeaker@legis.la.gov>; apa.s-natr@legis.la.gov <apa.s-natr@legis.la.gov>; sen26@legis.la.gov <sen26@legis.la.gov>; apa.h-natr@legis.la.gov <apa.h-natr@legis.la.gov>; hse035@legis.la.gov <hse035@legis.la.gov>
Cc Dustin Davidson <Dustin.Davidson@LA.GOV>; Blake Canfield (DENR) <Blake.Canfield@LA.GOV>; Morgan Rogers (DENR) <Morgan.Rogers2@la.gov>; Emily Andrews <Emily.Andrews@la.gov>

2 attachments (1,008 KB)

2026.06.01_2nd Legis Report, Regulation of Solar Power Generation Facilities (LAC 43.I.5101-5121).pdf; 2026.01.20_Revised Redline for Potpourri (1).pdf;

Good afternoon.

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Conservation and Energy submits the attached report regarding the above-referenced proposed rule. Revisions to the proposed rule were published via a Potpourri Notice in the Louisiana Register, and a redline with said revisions is attached. Comments were received and a public hearing was held. No amendments were made to the proposed rule as a result of the public comments.

If you have any questions regarding this material, please email me at Elizabeth.Ferrier@la.gov.

Sincerely,

Elizabeth H. Ferrier
Attorney

Louisiana Department of Conservation and Energy
Office of the Secretary | Legal Services
Address: 617 North 3rd Street, Baton Rouge, LA 70802
Phone: 225-342-4165 | **Fax:** 225-342-4527
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Outlook

Request received

From APA - House Speaker <apa.housespeaker@legis.la.gov>
Date Mon 6/1/2026 12:59 PM
To Elizabeth Ferrier <Elizabeth.Ferrier@la.gov>

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE SPEAKER

Your Administrative Procedure Act (APA) submission has been received by the Office of the Speaker, Louisiana House of Representatives.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11 to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees https://www.legis.la.gov/legis/Committees.aspx?c=H and here for Senate Committees https://www.legis.la.gov/legis/Committees.aspx?c=S. The name and contact information of all committee members is available at these sites.

Outlook

Request received

From APA - House Natural Res <apa.h-natr@legis.la.gov>
Date Mon 6/1/2026 12:59 PM
To Elizabeth Ferrier <Elizabeth.Ferrier@la.gov>

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Natural Resources, Louisiana House.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11 to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees https://www.legis.la.gov/legis/Committees.aspx?c=H and here for Senate Committees https://www.legis.la.gov/legis/Committees.aspx?c=S. The name and contact information of all committee members is available at these sites.

Request received

From APA - Senate Nat Resources <apa.s-natr@legis.la.gov>
Date Mon 6/1/2026 1:00 PM
To Elizabeth Ferrier <Elizabeth.Ferrier@la.gov>
Cc APA - Senate Nat Resources <apa.s-natr@legis.la.gov>

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ELECTRONIC RECEIPT BY COMMITTEE

Your Administrative Procedure Act (APA) submission has been received by the Committee on Natural Resources, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11 to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees https://www.legis.la.gov/legis/Committees.aspx?c=H and here for Senate Committees https://www.legis.la.gov/legis/Committees.aspx?c=S. The name and contact information of all committee members is available at these sites.

Outlook

Request received

From APA - Senate President <APA.senatepresident@legis.la.gov>
Date Mon 6/1/2026 1:00 PM
To Elizabeth Ferrier <Elizabeth.Ferrier@la.gov>

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

ELECTRONIC RECEIPT FROM THE OFFICE OF THE PRESIDENT

Your Administrative Procedure Act (APA) submission has been received by the Office of the President, Louisiana Senate.

(Please do not respond to this automatically generated response.)

If your communication is unrelated to an APA required submission, it has been deleted.

If you would like to contact your state legislator, click here https://www.legis.la.gov/legis/HowDoI2.aspx?p=3#11 to determine the name of your state representative and state senator and to find their contact information.

If you would like to contact members of a particular committee, click here for House Committees https://www.legis.la.gov/legis/Committees.aspx?c=H and here for Senate Committees https://www.legis.la.gov/legis/Committees.aspx?c=S. The name and contact information of all committee members is available at these sites.

JEFF LANDRY
GOVERNOR

DUSTIN H. DAVIDSON
SECRETARY

DEPARTMENT OF CONSERVATION AND ENERGY

June 1, 2026

VIA STATUTORILY PRESCRIBED E-MAIL
The Honorable Bob Hensgens, Chairman
Senate Natural Resource Committee

The Honorable Brett Geymann, Chairman
House Natural Resources and Environment Committee

Re: Summary Report for Proposed Rule
Regulation of Solar Power Generation Facilities (LAC 43:I.5101-5121)
Proposed on August 20, 2025

The Louisiana Department of Conservation and Energy ("C&E"), Office of the Secretary, proposes to adopt LAC 43:I.5101-5121 in accordance with the Administrative Procedure Act, La. R.S. 49:950 *et seq*., and under the authority of La. R.S. 30:1154 and Act 555 of the 2022 Regular Legislative Session. The proposed rule requires permits to construct and operate solar power generation facilities and sets forth regulations governing the decommissioning and required financial security of such facilities.

On August 8, 2025, in accordance with La. R.S. 49:966(B) and (C), C&E forwarded the Notice of Intent and other statutorily required documents to the Office of the Governor, presiding officers of the House and Senate, and the appropriate legislative committees. A public hearing was held on September 26, 2025. On December 16, 2025, C&E submitted a summary report to the appropriate legislative committees with changes to the proposed rule. A Potpourri Notice was published in February 2026 with revisions to address concerns raised following issuance of the December 16, 2026, report, to provide clarifications, and to make substantive and structural changes resulting from the revisions. The potpourri hearing was held on March 23, 2026, where C&E received written and oral comments.

Pursuant to La. R.S. 49:961(B) and 966(D)(1)(b), C&E submits the following summary report.

I. Summary of Public Hearing Testimony and the Agency's Responses

A public hearing was held on Monday, March 23, 2026, at 9:00 a.m. to receive comments on the proposed rule. Attendees included representatives from the solar and renewable energy industry and a Louisiana urban, rural, and regional planning nonprofit organization.

Testimony was given by Willie Parms with Louisiana Environmental Energy, LLC. His testimony is summarized below, followed by C&E's responses.

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Testimony: Louisiana Environmental Energy, LLC is a solar and storage farm developer in Baton Rouge, Louisiana and is currently developing the East Baton Rouge Parish Emergency Power Facility. It supports legislation for power, solar power generation and storage capacity-building and thinks the proposed rule will move its project and future projects proposed in Louisiana forward.

Response: C&E acknowledges the comment and appreciates Commenter's support. No discussion is necessary as the comment does not suggest an amendment or change.

II. Summary of Comments Received and the Agency's Responses and Proposed Actions Resulting From Public Comments

C&E received a total of 38 written comments on the proposed rule from commenters, consisting of nonprofit organizations, a solar facility developer, a statewide pro-business organization, and regional trade associations representing various entities within the renewable energy industry. The department's responses, which include a concise statement of the principal reasons for and against adopting any of the suggested amendments or changes and any proposed actions resulting from the comments, are provided below each comment.

<table>
<tr><td>COMMENT 1:</td><td>Lindsay Cooper Phillips, Clean Air Task Force

Commenter supports several decommissioning and financial responsibility provisions in the proposed rule that offer valuable clarifications to solar developers and operators and that support the streamlining of permitting processes. These provisions include:

• The option to, upon request to the Department, combine a permit application that includes decommissioning requirements with other required permits into a single permit;
• Specificity around public hearing processes regarding decommissioning and financial security plans, including a 30-day requirement for the Department to decide on whether to hold a hearing;
• Flexibility in permitted financial instruments; and
• Allowance of previously agreed-upon decommissioning terms in decommissioning plans.

Improvements to the proposed rule could further foster industry and cost competitiveness, which can drive down energy costs for consumers while getting needed generation deployed.</td></tr>
<tr><td>RESPONSE:</td><td>C&E acknowledges the comment and appreciates the support. No change is necessary as the comment does not suggest an amendment or change.</td></tr>
<tr><td>RESULT:</td><td>C&E will not make any changes to the regulatory text at this time.</td></tr>
</table>

COMMENT 2:	Lindsay Cooper Phillips, Clean Air Task Force The proposed rule would require the operator of the proposed solar facility to provide written notice about projected locations of supportive transmission and distribution infrastructure. While generation developers typically assess nearby transmission capacity during the site selection process, the Department could further boost future solar and other clean energy generation deployment by assessing and aggregating surplus capacity available on existing transmission and distribution lines to facilitate swifter deployment.
RESPONSE:	C&E acknowledges the comment. C&E does not currently have the authority to require submission of nor the current ability to assess and aggregate surplus capacity data as transmission and distribution lines are regulated by the Louisiana Public Service Commission.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 3:	Lindsay Cooper Phillips, Clean Air Task Force The proposed rule suggests striking incorporation of salvage value into decommissioning costs. When solar facilities are decommissioned, the component parts and raw materials can still retain significant value and be sold and repurposed. The value of those salvaged parts can be estimated and deducted from total decommissioning costs, resulting in a lower net cost of decommissioning that reduces overall project cost and financial burden on developers. While data is limited because most solar facilities have not yet reached their end of useful life, current research estimates decommissioning solar facilities costs range from $9,000 to $30,000 per megawatt and upwards of $15,000 per acre, depending on project-specific characteristics and calculation methodologies. These estimates pose great expenses for any developer. Lowering the cost of decommissioning infrastructure can reduce barriers to both project development – by decreasing financial security required upfront – and to developers in returning land to other uses and/or to its pre-development state. Incorporating the value of salvaged material from the project into decommissioning plans can potentially reduce decommissioning costs by up to 25 percent. Commenter recommends modeling the proposed rule after other states' requirements, specifically Texas, Oklahoma, and Georgia, which incorporate salvage value when calculating financial assurances for decommissioning and to consider reincorporating salvage value into the proposed rule.
RESPONSE:	C&E acknowledges the comment. La. R.S. 30:1154(A)(9)(b)(iii) expressly limits consideration of salvage value in determining decommissioning costs to "if the materials are available in decommissioning during a bankruptcy of the facility owner or operator." Consistent with this statutory language, the proposed rule is intended to ensure that sufficient financial security is available to complete decommissioning and site restoration obligations, particularly in

	circumstances involving insolvency or abandonment where projected salvage value may not be fully realizable.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 4:	Kevin White and Paul Szewczykowski, Ecoplexus, Inc. Excluding salvage value from the calculation of the required decommissioning bond or financial instrument creates significant, quantifiable negative impacts on the economic viability of solar projects in Louisiana. Excluding salvage value directly increases the required financial assurance amount, leading to the following detrimental financial outcomes for solar projects: • Increased Capital Expenditure (CapEx) and Collateral Requirements: A higher gross bond amount necessitates a larger commitment of upfront capital. For a typical utility-scale solar facility, the estimated cost of a bond (whether through a surety bond, a letter of credit, or cash collateral) can range from 1% to 10% of the total face value of the bond, depending on the instrument. If a bond is set at $5 million without accounting for an estimated $2 million in salvage value, the collateral requirement is inflated by $2 million. This difference directly reduces the capital available for development and construction, increasing a project's overall CapEx. • Reduction in Project Internal Rate of Return (IRR) and Net Present Value (NPV): The increased cost of financial assurance must be borne by the project. This increased cost, whether as an annual surety premium or the opportunity cost of dedicated cash collateral, is a direct drag on returns. Dedicating capital to a non-productive, inflated bond reduces the project's Net Present Value (NPV) and Internal Rate of Return (IRR). Even a few basis points reduction in IRR can make a marginal project uneconomic for investors, potentially driving solar investment away from Louisiana. • Higher Cost of Electricity (LCOE): Ultimately, all project costs, including the cost of inflated financial assurance, are factored into the Levelized Cost of Energy (LCOE). By increasing the LCOE, the regulation makes solar power less competitive compared to other energy sources, running counter to the goal of encouraging renewable development. Commenter believes that allowing for the deduction of documented, readily marketable salvage value (e.g., aluminum frames, copper wiring, and solar panels) would create a more economically rational and equitable regulation without compromising the state's intent to ensure proper site decommissioning. This adjustment would align Louisiana's regulatory framework with best practices across other leading solar markets. Commenter urges C&E to revise the rule to allow for the inclusion of a reasonable and independently verified salvage value in the bond calculation.

RESPONSE:	C&E acknowledges the comment. While C&E recognizes commenter's position regarding potential impacts on project economics, the proposed rule is limited by the text of La. R.S. 30:1154(A)(9)(b)(iii).
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 5:	Kevin White and Paul Szewczykowski, Ecoplexus, Inc. The permit application process requires a plat/survey by a Louisiana licensed engineer and a stamped landscape plan by a Louisiana-licensed landscape architect or landscape horticulturalist. The costs and time associated with obtaining these specific, required professional documents add significantly to project soft costs and extend the development timeline. Furthermore, relying on a narrow pool of in-state licensed professionals introduces a significant bottleneck risk to the development schedule. Projects can be delayed waiting for these professionals, and the specialized requirement gives these limited providers outsized leverage to increase fees, artificially inflating the soft costs of every project.
RESPONSE:	C&E acknowledges the comment. C&E recognizes the requirement for obtaining a plat/survey from a Louisiana-licensed engineer may increase a project's soft costs and extend the timeline for development. However, requiring local professionals subject to state licensing boards to prepare and certify these documents is necessary to protect public interests and ensure compliance with state and local requirements.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 6:	Kevin White and Paul Szewczykowski, Ecoplexus, Inc. The introduction of a new state-administered permitting process adds another layer of regulatory overhead and expense on top of existing local permitting, such as existing Parish project agreements and local solar ordinances, and existing federal permitting. This is not simply one more form; it creates the potential for redundant and even conflicting requirements especially between the state and local jurisdictions. This lack of a streamlined, single-point permit process forces developers to manage multiple separate approval timelines, increasing the risk of delays and administrative staffing needs. This is a material obstacle to timely project commencement and increases compliance costs, ultimately hindering the state's ability to attract rapid renewable energy investment.
RESPONSE:	C&E acknowledges the comment. C&E recognizes projects may be subject to requirements on the parish/local- and federal-level, however, the Louisiana Legislature established the requirement for a State-administered permit in La. R.S. 30:1154. C&E will coordinate review and administration of the permitting program consistent with its statutory authority and regulatory responsibilities.
RESULT:	C&E will not make any changes to the regulatory text at this time.

COMMENT 7:

Don Caffery, Natural Resources Management Association

The Potpourri strikes important landowner-protective language from the definitions of “Restoration” and “Restoration Activities” in §5101 and eliminates the entirety of a landowner-authorized decommissioning exemption that appeared in §5113(F) of the prior version of the proposed rule. Neither Acts 2021, No. 301 nor Acts 2022, No. 555 mention, much less prohibit, actions by property owners in this manner. These deletions remove important protections for property owners without sufficient justification and are inconsistent with the broader principle, reflected throughout Louisiana law, that private parties should be free to negotiate the terms of their contractual relationships.

Louisiana law has consistently upheld the primacy of private contracts in matters of property use, lease terms, and restoration obligations. The decommissioning obligations established by this rule fundamentally involve agreements between the solar developer and the landowner: the developer leases the land long-term and must restore the property at the end of that lease. The state’s legitimate interest is to ensure this restoration obligation is fulfilled, not to dictate the specific form of restoration against the landowner's objections or preferences.

Consider the practical implications. A landowner leasing land for solar development might prefer, at the end of its use, that the land be left graded and ready for row crop farming rather than restored to its original state as unimproved pasture. A timber landowner could favor leaving certain roads and drainage improvements installed by the solar developer, as they increase the land’s forestry management value. Sometimes, a landowner simply wants the flexibility to negotiate restoration terms that reflect how the land has changed after 25 years of solar operations. Under the revised Proposed Rule, none of these outcomes are possible, even if the landowner wants them. The state enforces a uniform restoration requirement regardless of the landowner’s preferences.

This approach is inconsistent with the legislative framework. R.S. 30:1154(A)(8) requires C&E to adopt minimum requirements for property leases for solar energy development, “including but not limited to acreage, access, and maintenance of the property during the lease, decommissioning, and final site closure upon termination of the lease.” The word “minimum” is significant: the Legislature authorized floor requirements, not an inflexible mandate that overrides the parties’ own negotiated terms. A regulatory scheme that prohibits a landowner from agreeing to a different, or even superior, restoration outcome is an abuse of C&E’s authority related to this rule.

Commenter recommends reinstating the alternative restoration language (“...or an alternative condition as agreed upon between the landowner and responsible party or designated operator...”) in the definitions of “Restoration” and “Restoration Activities” in §5101.

	Commenter also recommends reinstating the landowner-authorized decommissioning exemption in §5113(F) with appropriate procedural safeguards. At a minimum, any landowner who has entered into a written, witnessed agreement expressly authorizing alternative restoration activities should be able to have that agreement recognized in the permitted decommissioning plan, subject to C&E's review and approval to ensure compliance with applicable law. Commenter notes that neither of these recommendations would reduce C&E's ability to ensure that decommissioning actually occurs or that the land is left in a safe and productive condition. C&E's oversight and enforcement authority would remain fully intact. The only change is that landowners would retain the contractual autonomy that Louisiana law has always recognized as fundamental to property ownership.
RESPONSE:	C&E acknowledges the comment and commenter's concerns regarding private contract rights. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties, and obviously C&E intends to implement these regulations consistent with the federal and state constitutions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 8:	Don Caffery, Natural Resources Management Association A second significant concern with the Proposed Rule is the interaction of §5115(C) with the real-world contractual and regulatory environment in which utility-scale solar projects are developed in Louisiana. As currently drafted, the Proposed Rule can require a solar developer to post three separate financial security instruments for a single project: one for C&E, one for the landowner, and one for the parish government. This tripling of bonding obligations is economically wasteful, potentially project defeating, and unnecessary to accomplish C&E's legitimate decommissioning objectives. The first bond is set forth in Section 5115(C) of the Proposed Rule that requires the financial security instrument "name the department as the beneficiary," which C&E holds until the facility is fully decommissioned or a replacement instrument is provided. In addition, because solar projects in Louisiana are typically developed on leased private land under long-term ground leases spanning 25 to 40 years or more, landowners routinely and reasonably require that the developer provide financial security naming the landowner or lessor as beneficiary as a condition of the lease. This private contractual requirement protects the landowner's interest in property restoration if the developer becomes insolvent or abandons the facility, and is a legitimate, commercially standard protection that NRMA members regularly seek in solar lease negotiations. This is the second bond. Separately, many parishes adopted local ordinances regulating solar development and frequently require developers to

post a bond or other financial assurance naming the local government as beneficiary as a condition of obtaining local approval. This is the third bond.

The result is that a solar developer constructing a utility-scale facility on leased land in a parish with a solar ordinance may be required to hold three separate financial security instruments simultaneously, each requiring its own surety premium, its own collateral, and its own legal and administrative overhead. This is not a theoretical concern; it is the practical reality facing solar developers in Louisiana today, and it directly affects the economics of solar projects and therefore the lease payments available to property owners.

Act 555 acknowledged the potential for overlap between the state-required bond and financial security provided to landowners. R.S. 30:1154(A)(9)(a) provides that "the secretary may accept any financial security provided to the landowner or lessor for facilities exempted from permit fees pursuant to Paragraph (D)(3) of this Section." That exemption applies to facilities certified by the Public Service Commission or the City of New Orleans Council on or before August 2, 2022. This narrow exception reflects the Legislature's recognition that requiring a duplicative state bond in addition to an existing landowner security instrument may be wasteful, but it addresses only a narrow category of facilities and does not solve the problem for the vast majority of covered projects.

Commenter urges C&E to extend this same logic broadly. If a solar developer has already posted financial security in favor of the landowner in an amount sufficient to cover the approved decommissioning cost estimate, requiring an additional, duplicative state bond does not meaningfully enhance public protection. The decommissioning obligation exists; the financial security exists; the only question is which party holds the instrument. A smarter regulatory approach would coordinate the requirements rather than stack them.

Commenter recommends amending §5115 to address the triple-bond problem through the following approaches:

- Multi-Beneficiary Instruments. C&E should expressly permit a single, multi-beneficiary financial security instrument that names the Department, the landowner or lessor, and any relevant local government as co-beneficiaries. A properly structured multi-beneficiary performance bond or irrevocable letter of credit accomplishes all protective purposes with a single instrument, eliminating wasteful duplication at no cost to the integrity of the decommissioning security program.
- Recognition of Landowner-Held Security. If a solar developer has posted financial security in favor of the landowner or lessor in a form and amount that meets the requirements of §5115 (irrevocable, issued by a licensed corporate surety, sufficient term, equal to the approved decommissioning cost estimate), C&E should be authorized to accept that instrument in lieu of, or as partial satisfaction of, the state financial security requirement. This approach mirrors the limited exception

	already embodied in R.S. 30:1154(A)(9)(a) and simply extends its logic to all covered facilities. • Coordination with Local Governments. Sections 5109(A) and 5109(D) of the Proposed Rule should encourage local governments to accept a single multi-beneficiary instrument rather than requiring separate instruments and should provide guidance on structuring such instruments. Commenter recognizes that C&E's primary obligation is to protect the state's interest in proper decommissioning, especially on public property. None of the approaches recommended above would impair that interest. The state's position as a beneficiary would be fully preserved; the only change is that the instrument would also protect landowners and local governments who have independent, legitimate interests in the same outcome.
RESPONSE:	C&E acknowledges the comment. The financial assurance requirements contained in Section 5115 of the proposed rule are intended to implement C&E's statutory obligations under La. R.S. 30:1154(A)(9) to ensure that sufficient financial security is maintained for decommissioning and site restoration. Separate financial assurance obligations under private lease agreements or local ordinances are outside its regulatory authority. The proposed rule does not prohibit applicants from utilizing financial instruments or arrangements that may satisfy multiple obligations where consistent with applicable law and acceptable to the relevant parties. However, C&E must ensure that any financial security it accepts adequately protects the state's interest in completion of decommissioning obligations in accordance with statutory and regulatory requirements.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 9:	Don Caffery, Natural Resources Management Association The Potpourri repeals the definition of "Salvage Value" from §5101 and strikes all provisions in §5113(C)(6) that previously required the decommissioning cost estimate to include the salvage value of solar devices, integrated equipment, and other materials, and to calculate a "net decommissioning cost" as the difference between gross cost and salvage value. This change ignores the negotiations and bargains struck in 2021, and is inconsistent with the enabling statute, contrary to sound economic policy, and ultimately harmful to Louisiana property owners. Acts 2022, No. 555 explicitly defined "salvage value" in R.S. 30:1154(E)(3) as "the actual or estimated scrap value of the raw materials once removed from the facility and ready for sale." The Legislature's choice to define this term in the statute, while simultaneously delegating rulemaking authority over financial security to the Department, plainly reflects a legislative intent that salvage value would be incorporated into the regulatory framework. Further, R.S. 30:1154(A)(9)(b)(iii) directs that in determining the adequacy of the bond, the Secretary shall consider "the estimated cost of site closure and

	remediation," and states that "[t]he secretary may consider only the salvage value of the facility and associated infrastructure in determining the estimated cost of site closure and remediation if the materials are available in decommissioning during a bankruptcy of the facility owner or operator." While this provision addresses the bankruptcy context specifically, the Legislature's explicit reference to salvage value as a cost-reduction factor demonstrates that the Legislature viewed salvage value as a legitimate and expected component of the financial security calculation. A regulation that eliminates this factor entirely is in tension with the legislative framework. It is notable, too, that the prior version of the proposed rule did incorporate salvage value into the decommissioning cost estimate. Section 5113(C)(6)(b) of that version required the estimate to include "the salvage value of the solar devices, integrated equipment, and other materials associated with the facility," and §5113(C)(6)(c) required computation of a "net decommissioning cost, calculated as the difference between the gross cost and the salvage value." The Potpourri strikes all of this language without explanation. Moreover, C&E's stated rationale for removing salvage value: apparently that salvage value is unreliable or uncertain, does not justify elimination. The appropriate regulatory response to uncertainty is conservative estimation and oversight requirements, not categorical exclusion of an economically real asset. C&E already has the authority to review and approve decommissioning cost estimates under §5113; that same authority can be used to scrutinize salvage value estimates and reject those that are unreasonable.
RESPONSE:	C&E acknowledges the comment. The proposed rule is limited by the text of La. R.S. 30:1154(A)(9)(b)(iii), which limits consideration of salvage value by providing that the secretary may consider salvage value only if the materials are available during decommissioning in the event of bankruptcy of the facility owner or operator. C&E determined that exclusion of speculative future salvage value estimates from standard decommissioning cost calculations is appropriate to fulfill its statutory responsibilities and to protect against the risk that projected salvage value may not be realized at the time decommissioning is required. C&E further acknowledges commenters' concerns regarding regulatory certainty and economic competitiveness and remains committed to administering the regulations in a clear and consistent manner.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 10:	<u>Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association)</u> Commenters are concerned that several changes in the rules may needlessly and unlawfully add costs to the development of solar resources in Louisiana, depending on how they are subsequently interpreted by the Department, which may in turn increase prices for Louisiana families and businesses at a time when affordability should be top of mind. The most significant issue is the removal of salvage as an explicit factor in determining how much financial security must

	be posted to cover total decommissioning costs. To the extent this removal is intended by the Department to prohibit such consideration, it violates the terms and intent of La. R.S. § 30:1154 (A)(9)(b)(iii) (2024), which specifically contemplates and arguably requires that such value be acknowledged and considered. It is also contrary to prevailing practices in other jurisdictions, which as explained in our prior comments recognize that financial security for decommissioning costs – basically, an insurance product provided for a worst-case scenario that the solar facility operator does not decommission the facility – should be sized according to the actual total costs necessary to decommission the site. Additionally, ambiguity and regulatory uncertainty could lead solar project developers to invest in other states that provide more regulatory certainty in this area, which would hinder the state's ability to compete for economic development projects.
RESPONSE:	C&E acknowledges the comment. The proposed rule revisions are not intended to prohibit consideration of salvage value when permitted by the text of La. R.S. 30:1154(A)(9)(b)(iii). C&E further acknowledges commenters' concerns regarding regulatory certainty and economic competitiveness and remains committed to administering the regulations in a clear and consistent manner.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 11:	<u>Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association)</u> The Department should provide an updated economic impact statement that analyzes the extent that the proposed revisions to the Regulations will discourage the development and use of solar energy. SREA's initial Comments Submitted in February of 2025 noted the following concern: "Regarding the "Estimated Effect on Revenue Collections of State or Local Government Units, the Department states that "the proposed rule will increase revenue for the state through the implementation of new fees," however the Rule does not consider possibility of decreased revenue resulting from the solar industry opting to develop projects in other states as a result of these new regulations, which increase the cost of developing solar facilities in Louisiana. As recommended in SREA's initial comments, the Department should consider the extent to which the proposed Rule will result in decreased investment in Louisiana by the solar industry, which will in term decrease revenues and economic development. The Department should be aware that neighboring states such as Arkansas do not have state wide decommissioning requirements for solar facilities, except on agricultural land, and even those requirements allow salvage value to be deducted from the financial assurances. Based on the fact that neighboring states have more business-friendly solar decommissioning policies, it would be arbitrary and capricious for the Department's Financial and Economic Impact Statement to assume that the solar industry will choose to comply with all of the burdensome regulations, thereby increasing state revenue through the implementation of new fees, rather than deciding to invest in other

	states where the regulatory environment encourages the use and development of solar energy. Therefore, the Department should update the Financial and Economic Impact Statement as recommended herein. Pursuant to LSA-R.S. 49:961(C)(2) the revised Financial and Economic Impact Statement should consider "an estimate of the cost or economic benefit to all persons directly affected by the proposed action," including the cost of compliance to the Energy Trade Associations' independent power producer members, as well as "an estimate of the impact of the proposed action on competition," including the impact on the state of Louisiana's ability to compete with neighboring states for solar projects and customers who desire access to clean and renewable energy.
RESPONSE:	C&E acknowledges the comment and commenters' concerns regarding potential impacts on solar development and Louisiana's competitiveness with neighboring states. The Financial and Economic Impact Statement (FEIS) prepared in connection with the proposed rule's notice of intent was developed to reflect the best available information at that time. C&E notes that the FEIS was revised for the potpourri to reflect the removal of the cash payment option for the financial security requirement. As C&E continues to develop and refine its permitting program and promulgate related rules, it will continue to evaluate and update related FEIS documents.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 12:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) Regarding the statutory requirement to estimate the impact of the proposed action on competition, C&E should also consider that the Louisiana Lightning Speed Initiative Executive Order directed designated agencies, including C&E, to collaboratively to align policy, permitting, infrastructure, workforce, and regulatory processes to accelerate and sustain economic development statewide, positioning Louisiana to outpace competing states, finding that "achieving competitive parity with leading Southern states in economic development requires a unified, coordinated effort across all state agencies." As further discussed in Exhibit A, some of the proposed changes to the Regulations appear to be consistent with the public policy set forth in the Louisiana Lightning Speed Initiative Executive Order to advance "Louisiana's competitiveness through a streamlined and accelerated approach," such as the proposed clarification in §5109(E) that "The department shall have 30 days to decide whether to hold a hearing." However, some changes appear to be directly contrary to this public policy and will jeopardize Louisiana's ability to compete with other states, such as the removal of exemptions and lack of clarity regarding whether salvage value may be deducted from the gross cost when calculating financial security. As more specifically outlined in the Clean Trade Associations' Exhibit A, the Department should avoid any revisions that are contrary to this state policy and adopt final Regulations that are consistent with the statutory requirement that

	regulations shall be designed to encourage the development and use of solar energy.
RESPONSE:	C&E acknowledges the comment and reference to the Louisiana Lightning Speed Initiative Executive Order in connection with the requirements of the FEIS. C&E must ensure that the regulations are implemented consistent with statutory requirements. The provisions in the proposed rule support clear and timely administration of the permitting program consistent with its legal authority under La. R.S. 30:1154.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 13:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Designated Operator: Revises to emphasize authorization by/on behalf of responsible parties and primary compliance responsibility. Support: more pragmatic definition, allows correct universe of operating entities to be DO.
RESPONSE:	C&E acknowledges the comment and appreciates Commenter's support.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 14:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Effective Date: Revises to July 1, 2026, or date of final promulgation, whichever is later. Improve: Prior version had effective date upon final promulgation, which was unworkable since in-flight projects nearing completion could face significant delays and costs. Prospective application concept is better; facilities should be given a four-month grace period after promulgation to comply.
RESPONSE:	C&E acknowledges the comment.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 15:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Responsible Party: Deletes the phrase "or legal entity," narrowing the defined term from "any person or legal entity" to "any person." Support: since legal entity can be a "person" this appears to be a clean-up change.
RESPONSE:	C&E acknowledges the comment and appreciates Commenters' support.

RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 16:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Restoration: Deletes alternative-restoration language: "or an alternative condition as agreed upon between the landowner and responsible party or designated operator." Part of revision's removal of exemption where operator and LL have agreed to remediation conditions. Oppose: erodes property owner right to determine how they want their land used within lawful bounds. If property owner wants the land retained or shaped in a different way than it was before project (e.g., drainage enhancements) they should be able to achieve that.
RESPONSE:	C&E acknowledges the comment. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties, and obviously C&E intends to implement these regulations consistent with the federal and state constitutions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 17:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Restoration Activities: Deletes language allowing restoration to alternative condition agreed upon between landowners and responsible party; must be reconditioned to extent practicable such that the land "resembles its conditions prior to construction and operation of the facility." Oppose: erodes property owner rights. See comment on definition of restoration.
RESPONSE:	C&E acknowledges the comment. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 18:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5101 Definitions. Salvage Value. Repeals definition. Oppose: Statute specifically contemplates inclusion of salvage value in setting decommissioning FS; definition adds clarity.
RESPONSE:	C&E acknowledges the comment. The separate definition of salvage value in the proposed rules was removed to avoid potential inconsistency with the limitations provided in La. R.S. 30:1154(A)(9)(b)(iii).

RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 19:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5109 Permit Requirement. §5109(A) Application: Inserts "projected" before "location" of interconnection-related transmission and distribution infrastructure. Support: recognizes that as-built location can change for reasons beyond developer's control.
RESPONSE:	C&E acknowledges the comment and appreciates Commenter's support.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 20:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5109 Permit Requirement. §5109(C)(2) Reduces cure period to remedy incomplete application from 60 days to 30 days. Can be extended for good cause. Oppose: developers already have incentive to move forward as quickly as possible; penalties are not needed and could add costs.
RESPONSE:	C&E acknowledges the comment. The developers may request an extension to the cure period if more time is needed. The previous remedy period caused confusion from commenters regarding the entire permit application processing time. This revision shortens the standard permit application timeline while still allowing the developer an opportunity to request additional time.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 21:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5109 Permit Requirement. §5109(E) Inserts: "The department shall have 30 days to decide whether to hold a hearing." Support/Improve: clear timelines add predictability and clarity, which keeps project and power prices lower. However, the Commenters would ask for a similar timeline in which a hearing, if any, will be held.
RESPONSE:	C&E acknowledges the comment. The timeline in which any hearing will be held will be provided within each hearing's notice.
RESULT:	C&E will not make any changes to the regulatory text at this time.

COMMENT 22:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5111 Generation Reporting Requirement. Removes Generation Reporting Requirements. Support: removes duplicative and costly reporting requirements.
RESPONSE:	C&E acknowledges the comment and appreciates Commenter's support.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 23:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(C)(6). Strikes provision allowing submission of materials seeking full or partial exemption based on agreement with landowner. Oppose: no reason to divert from prior approach of allowing preexisting legally binding agreements with landowners to enable exemption. Those are legally enforceable and no need to duplicate with state-administered layer that may disrupt prior agreements.
RESPONSE:	C&E acknowledges the comment. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties, and obviously C&E intends to implement these regulations consistent with the federal and state constitutions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 24:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(C)(7) Decommissioning Cost Estimate. Clarifies that decommissioning plan and cost estimate must be adjusted and submitted every five years (or more often if pricing changes over 10%) per section (D); prior language could be read to indicate this was optional. Neutral: conforms with practice in other jurisdictions. However, if the adjustment requirement is retained, the cost escalator should be removed since costs will reset every five years.
RESPONSE:	C&E acknowledges the comment. The cost escalator provision is intended to account for inflation and potential cost increases or decreases between required updates to the decommissioning estimate.
RESULT:	C&E will not make any changes to the regulatory text at this time.

COMMENT 25:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(C)(7) Decommissioning Cost Estimate. Removes option to include landowner's preferences, which implemented now removed exemption procedure. Oppose: prior exemption process should be reinstated, as explained above.
RESPONSE:	C&E acknowledges the comment. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties, and obviously C&E intends to implement these regulations consistent with the federal and state constitutions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 26:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(C)(7)(b) Removes salvage value as required item in decommissioning estimate; adds "an escalation rate, determined by the department to account for future inflation "not exceed three percent per annum" Oppose removal of explicit salvage value. Salvage value is recognized by the enabling statute, is an essential element of total decommissioning costs, and should be included in a realistic decommissioning estimate. Oppose increase of escalation rate cap: Prior escalator addressed contingencies, this one is limited to "future inflation"— so percentage should be less, not more. As explained above, no inflation escalator is needed given the requirement to submit refreshed estimates every five years pursuant to section 5113(D).
RESPONSE:	C&E acknowledges the comment. La. R.S. 30:1154(A)(9)(b)(iii) limits when salvage value may be considered within the estimated decommissioning cost. The escalation rate provision is intended to ensure that the financial security instrument covers all decommissioning costs during the 5-year period between plan and cost estimate revisions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 27:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(C)(7)(c) Removes "net decommissioning cost," defined as difference between the gross cost and the salvage value, and replaces with text from prior subsection (d), "the total amount

	of the decommissioning cost estimate to be covered by the selected financial security instrument(s) and approved by the department." Oppose removal of explicit salvage value reference. Salvage value is recognized by the enabling statute, is an essential element of total decommissioning costs, and should be included in a realistic decommissioning estimate. "Total amount" is not defined but should capture "all costs necessary for or related to" decommissioning referenced in main text of 5113(7) and thus should not include gross costs that would not be necessarily expended given salvage value. This reading fits with the statute, which explicitly allows consideration of salvage value where available as collateral in bankruptcy.
RESPONSE:	C&E acknowledges the comment. La. R.S. 30:1154(A)(9)(b)(iii) limits when salvage value may be considered within the estimated decommissioning cost. The "total amount of the decommissioning cost estimate to be covered by the selected financial security instrument(s)" means the gross costs plus the escalation rate.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 28:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(D) Requirement for revisions/updates to plan every five years (or sooner if costs change >10%). Removes reference to adjustments to "salvage value estimate." Oppose removal of explicit salvage value reference for reasons stated above.
RESPONSE:	C&E acknowledges the comment. La. R.S. 30:1154(A)(9)(b)(iii) limits when salvage value may be considered within the estimated decommissioning cost.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 29:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(E) Change allows under construction/operating facilities to submit lease decommissioning terms in permit application. Support: this allows use of lease decommissioning terms in permit application; prior version only allowed that if developer had entered into "decommissioning agreement" with landowner. However, we oppose removal of exemption procedure when those agreements are in place – see comment on 5113(F).
RESPONSE:	C&E acknowledges the comment and appreciates Commenter's support.
RESULT:	C&E will not make any changes to the regulatory text at this time.

COMMENT 30:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5113 Decommissioning Requirements. §5113(F) Removes exemption procedure where landlord has agreed to alternate decommissioning terms. That procedure allowed Department to approve alternative landowner plan where Department, reviewing economic and environmental benefits of alternative plan, finds no adverse impacts impeding program compliance. Oppose: impairs owner rights to direct use of property and decommissioning, which should be allowed if not contrary to program goals.
RESPONSE:	C&E acknowledges the comment. C&E does not interpret or intend to apply the proposed rule in a manner that contravenes established Louisiana law governing private property rights or lawful contractual agreements between private parties, and obviously C&E intends to implement these regulations consistent with the federal and state constitutions.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 31:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5115 Financial Security Requirements. §5115(A) Timing: instead of requiring FS to be established and submitted "prior to construction," revision requires FS be "established" within 30 days after permit issues. Oppose: financial security should be in place before construction (and decommissioning risk) commences; lags between permit issuance and construction commencement means new requirement would increase project costs and ultimate energy costs by mandating FS be in place between time permit issues and construction commences.
RESPONSE:	C&E acknowledges the comment. The proposed rule was changed in response to previous comments indicating that requiring financial security be in place too early before construction (*i.e.*, with the permit application) could create practical difficulties and potentially delay a project's development. The revision still requires financial security to be established before construction commences. Similar to the financial security requirements for oil and gas wells set forth in LAC 43:XIX.104, the issuance of a permit under these rules is intended to notify the facility's owner/operator that the secretary has approved the FS instrument identified in the permit application.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 32:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5115 Financial Security Requirements. §5115(B) Form: gives Secretary authority to approve instruments other than preapproved options of performance

	bond, letter of credit or cash through "formal order." This change obviates the need for separate provisions in prior version delineating separate requirements for Letters of Credit and Cash security, which have been struck (prior Sections 5115(C)(2)-(3)). Support: aligns with industry request for more flexibility; unclear what "formal order" requires.
RESPONSE:	C&E acknowledges the comment and appreciates the support.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 33:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5115 Financial Security Requirements. §5115(C) Amount: Requires FS in amount equal to 100% of "approved" decommissioning cost estimate in 5113(C)(7) – removing "gross" and replacing with "approved." As noted above, 5113(C)(7) requires the plan estimate to include "all costs necessary for and related to" decommissioning; and the plan must include gross costs, escalation rate, and the "total" amount of decommissioning costs to be covered by the FS "and approved by the department." Support: "gross" cost is the incorrect metric for financial security, and using it would require FS for costs that are not "necessary" for decommissioning. As noted earlier, the statute explicitly contemplates inclusion of salvage value where available as collateral in bankruptcy.
RESPONSE:	C&E acknowledges the comment. See Responses to Comments Nos. 26-27 and 31-32.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 34:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5115 Financial Security Requirements. §5115(E) Salvage Value: Revision removes provision defining salvage value treatment in setting FS. Oppose: the enabling statute explicitly contemplates inclusion of salvage value in calculating the necessary decommissioning costs a FS must secure where the salvaged assets are available as collateral to the Department in bankruptcy. The "costs necessary for and related to" decommissioning, which 5113(C)(7) requires be considered in setting financial security amount, includes salvage value, and that inclusion should remain explicit for the sake of clarity.
RESPONSE:	C&E acknowledges the comment. The proposed rule is limited by the text of La. R.S. 30:1154(A)(9)(b)(iii), which limits consideration of salvage value by providing that the secretary may consider salvage value only if the materials are available during decommissioning in the event of bankruptcy of the facility

	owner or operator. C&E determined that exclusion of speculative future salvage value estimates from standard decommissioning cost calculations is appropriate to fulfill its statutory responsibilities and to protect against the risk that projected salvage value may not be realized at the time decommissioning is required. The proposed rule revisions are not intended to prohibit consideration of salvage value when permitted by the text of La. R.S. 30:1154(A)(9)(b)(iii). C&E further acknowledges commenters' concerns regarding regulatory certainty and economic competitiveness and remains committed to administering the regulations in a clear and consistent manner.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 35:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5117(C) Enforcement. Removes, where Financial Security is cash, the requirement that DCE conducting decommissioning first exhaust Natural Resource Trust Authority allocations before seeking reimbursement from designated operator. Oppose. Prior version allowed NRTA coverage for decommissioning costs for cash financial security; no reason given to remove.
RESPONSE:	C&E acknowledges the comment. The potpourri revisions removed the cash payment option for the financial security requirement. As the Natural Resource Trust Authority further develops its financial security offerings this subsection may be revisited in future rulemaking.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 36:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5117(C) Enforcement. Removes provision giving DCE right of entry to effectuate lien on salvage materials and remove them. Oppose/Improve. Right of reentry should be made a condition by DCE when a permittee seeks to have salvage value included in estimation of the total necessary decommissioning costs that an FS must cover.
RESPONSE:	C&E acknowledges the comment. Subsection (A) provides C&E with the right of entry for decommissioning activities, which includes circumstances that involve the need to estimate salvage value.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 37:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association)

	§5121(A)(1) Fees. Inserts "no more than" before "$15 per acre" for the application fee. Support/improve: application fees, similar to the annual and monitoring fee, should not exceed a pro rata share of DCE's costs of administering application and permitting.
RESPONSE:	C&E acknowledges the comment.
RESULT:	C&E will not make any changes to the regulatory text at this time.
COMMENT 38:	Energy Trade Associations (Advanced Power Alliance, Gulf States Renewable Energy Industries Association, and Southern Renewable Energy Association) §5121(A)(1) Fees. Draft reorganizes text regarding calculation of annual monitoring and maintenance fee, and acceptable forms of payment. No substantive change. Neutral.
RESPONSE:	C&E acknowledges the comment.
RESULT:	C&E will not make any changes to the regulatory text at this time.

III. Revisions to the Proposed Rule Since Submitting Notice of Intent

No revisions were made as a result of the comments received. The department anticipates publishing the final rule in the Louisiana Register as soon as permissible under the Administrative Procedure Act. Please inform us of your decision on whether or not you intend to hold a hearing as permitted by La R.S. 49:966(D).

If you have any questions, please do not hesitate to contact me at (225) 342-4165 or Elizabeth.Ferrier@la.gov, or Morgan Rogers at (225) 342-0572 or Morgan.Rogers2@la.gov.

Very truly yours,

Elizabeth Ferrier
Attorney, Office of Legal Services

CC: Emily Andrews, Special Counsel, Office of the Governor
Dustin Davidson, Secretary, C&E
Blake Canfield, Executive Counsel, C&E
Morgan Rogers, Attorney, Office of Legal Services, C&E

Attachments: Revised Redline of Rule

§5101. Definitions

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

Abandoned—a solar power generation facility that has not generated power for 12 consecutive months, except for good cause as determined by the department.

Construction—the installation of solar devices, equipment, and other materials or structures necessary for the operation of a solar power generation facility. Construction does not include the performance of preliminary activities to prepare the site, such as clearing, grading, testing, and surveying. This definition is adopted solely for the purpose of implementing the requirements for permits in this Chapter and is not intended to be interpreted as, align with, or affect the meaning of "construction" under any other federal or state law or regulation.

Decommission—the minimum requirements for the removal and recycling or 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 Conservation and 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 is authorized~~,~~ on behalf of all responsible parties as being~~, is~~ 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.

Facility Footprint—the area within the perimeter of a solar power generation facility utilized by solar devices and integrated equipment up to, but not including, any fencing, setback, buffer, greenspace or similar requirements under state law or regulation, local ordinance, or contractual agreement(s).

Force Majeure Event—a fortuitous event beyond the control of the designated operator, responsible party, landowner, or any combination thereof, that, based on the specific circumstances involved, ceases or unreasonably delays decommissioning activities. A force majeure event may include, without limitation: a major storm, flood, or similar natural disaster; federal or state order; significant supply chain disruptions; or other similar unforeseen events where timely and reasonable measures would not have avoided or mitigated the resulting impact.

Material Change— any change to the information provided in a permit application, or upon which an active permit is based, that may reasonably affect the department's evaluation of a facility's

compliance with this Chapter or any conditions of the permit to be issued. Material changes include, but are not limited to, a change in the designated operator or any responsible party; a change in the ownership or leasing structure of the facility site; a change to the facility's capacity, acreage, or other configuration that increases or decreases the footprint by more than 10 percent; a change to the location of solar devices or the point of interconnection; a change in the form, provider, or amount of financial security; change to the decommissioning plan; or a change of the decommissioning cost estimate by 10 percent or more.

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

Removal Activities—the removal, recycling, and disposal of all solar devices, integrated equipment and materials making up the solar power generation facility, and any transmission and distribution infrastructure traversing from the facility to the point of interconnection.

Responsible Party—any person ~~or legal entity~~ 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 ~~or an alternative condition as agreed upon between the landowner and responsible party or designated operator~~ 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~~, or the alternative condition agreed upon between the landowner and responsible party or designated operator~~. 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. ~~the actual or estimated scrap value of the intact and raw materials and components 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.

§5103. Applicability

A. These rules apply to all ground-mounted solar power generation facilities, or parts thereof, with a facility footprint of 10 acres or more located in 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 requirements and obligations not specified in this Chapter;

2. authorizing local government to adopt and enforce rules for facilities that are more restrictive than or inconsistent with the rules set forth in this Chapter;

3. 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

4. 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.

§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 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. Permits issued under this Chapter may be transferred during the development and operation of the facility. The designated operator shall notify the department in writing within 60 days after transferring the permit.

§5107. Registration

A. The designated operator of a solar power generation facility shall register with the department before submitting a permit application to begin construction or commence operation of the facility. For facilities under construction or in operation before the effective date of these rules, the responsible parties shall appoint 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 that includes:

1. the designated operator's name and contact information, and, if applicable, its federal employer identification number and a copy of its detailed business record from the Secretary of State's website; and

2. the name, location, footprint, capacity, and status of the facility to the extent practicable at the time of registration.

C. The designated operator shall renew its 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 after any sale, transfer, or assignment of any responsible party's interest in a facility.

§5109. Permit Requirement

A. As a prerequisite to the permit application, the designated operator of a proposed solar power generation facility shall ~~provide~~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. The designated operator of a facility shall submit an administratively complete permit application to the department in advance of construction. The designated operator of a facility that has commenced construction or is 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;

2. a completed permit application form adopted by the secretary that includes:

a. the name, mailing address, email address, and phone number of each responsible party and, if applicable, the federal employer identification number and a copy of the detailed business record of each party from the Secretary of State's website; and

b. the facility's projected capacity, total number of acres within the facility footprint and of the entire project, and expected lifespan;

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

4. a decommissioning plan prepared in accordance with all requirements of this Chapter;

5. a description of the financial security to be provided prior to construction of the facility, payable to the department in an amount and form acceptable to the secretary, and due to the department before the permit is issued;

6. if the immovable property where the facility is to be constructed and operated is subject to a lease or other contractual agreement conveying the right to construct and operate the facility:

a. the name, mailing address, email address, and phone number of each lessor or grantor; and

b. a copy of all agreements or notices of lease conveying rights to construct or operate the facility recorded in the public records;

7. a sworn affidavit signed by the designated operator certifying complete compliance with Subsection (A), and a copy of each notice issued in accordance therewith;

8. payment to the department of the application fee and application processing fee required in Section 5121; and

9. any other information required by the department for issuing permits under this Subpart or that is relevant and reasonable to implement this Chapter.

C. Within 60 days of receipt, the department shall review each permit application and issue written notice of its findings to the designated operator as set forth below.

1. If the department finds that the application 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 to the designated operator identifying all missing or

deficient information required for approval. The designated operator shall address and remedy each such deficiency within 3~~6~~0 days after receipt of the notice. Upon request and a showing of good cause by the designated operator, the department may extend the 3~~6~~0-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. Within 30 days of issuing written notice of completion to the designated operator, the department shall publish the notice of completion on the department's website, in the state journal, and in the journal of each parish where the proposed facility will be located with instructions on submitting comments or a request for a public hearing regarding the decommissioning plan and financial security proposed in the permit application. The department will provide a copy of such publication to the police jury or council of all parishes in which the facility is located, the Department of Agriculture and Forestry, and the Department of Wildlife and Fisheries, with instructions on how to view the application. The publication shall specify a reasonable deadline by which all public comment(s) and request(s) for public hearing must be submitted.

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.

1. If the secretary elects to hold a public hearing, 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 on its website, in the state journal, and in the journal of each affected parish at least 30 days before the hearing date.

2. If the secretary determines that no hearing will be held, the department shall notify the requesting party of the decision.

F. The designated operator shall update the permit application with the department within 14 days after any material change of the information therein. The department may suspend or revoke an active permit upon a finding that a material change occurred, but was not reported to the department, before permit issuance.

G. The department shall issue a final permit decision to the designated operator no later than 30 days after the public comment deadline or date of the public hearing, whichever occurs later. The department shall publish notice of its decision on its website and to any person that submitted a comment or requested notice.

H. A permit issued by the department pursuant to this Chapter shall expire within five years of the date of issuance, unless construction of the facility has commenced. The designated operator may request an extension of the expiration date by providing the department with written notice that explains the circumstances for the delay and shows good cause for granting the request.

§5111. Reserved ~~Generation Reporting Requirements~~

~~A. If the designated operator has elected to post the required financial security in the form of cash payments in accordance with Section 5115(C)(3), the designated operator shall submit quarterly production reports to the department with records itemizing the amount of electricity in megawatt-hours (MWh) generated by the solar power generation facility, both since the prior reporting period, if applicable, and on aggregate since commencement of operations.~~

~~B. Each production report required by Subsection (A) shall be submitted by the designated operator no later than 30 days after the end of each 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.~~

§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. Each facility shall be decommissioned within 18 months after its final day of power generation. The designated operator shall notify the department in writing within 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, designated operator, or 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.

a. 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.

b. If the department determines that good cause was not shown, it may order the responsible party or designated operator to recommence power generation or proceed with decommissioning. If no action is taken within 30 days of the order, the department may commence decommissioning in accordance with the rules of this Chapter.

2. If a force majeure event unreasonably hinders or prevents decommissioning within 18 months of the facility's final day of power generation, the designated operator shall notify the department in writing within 30 days after the event. The notice shall provide a detailed description of the nature of the event, the anticipated duration of the delay, an estimated timeline for resuming decommissioning activities, and any documentation supporting the inability to comply with the applicable deadline. If the department determines that the circumstances warrant an extension, it

shall specify a reasonable deadline for compliance to the designated operator in writing. The department may order the designated operator to submit one or more written reports illustrating good faith efforts to resume decommissioning in accordance with the deadline.

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 reasonably required by the department regarding the subject facility:

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

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 to a public road; and all applicable setback plans; and

d. a description of the historical and pre-development use(s) of the land and all site work performed or planned to be performed thereon.

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 may be considered hazardous wastes and provide a summary of how they will be properly disposed of or recycled in accordance with applicable laws and regulations.

~~6. If applicable, the plan shall include the information required in Subsection (EF) to request a full or partial exemption from the decommissioning activities required herein.~~

6~~7~~. 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 may shall be adjusted as provided in Subsection (D) throughout the facility's operational life and should include, if applicable, the landowner's preferences in accordance with Subsection (FE). The plan must present the decommissioning estimate in 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. 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
the salvage value of the solar devices, integrated equipment, and other materials associated with the facility; and

c. the net decommissioning cost, calculated as the difference between the gross cost and the salvage value.

c. the total amount of the decommissioning cost estimate to be covered by the selected financial security instrument(s) and approved by the department.
d.Iif the financial security instrument is a performance bond, an irrevocable letter of credit, or bothany combination thereof, an escalation rate shall bea contingency rate, which is added to an increase of the gross cost listed in Subparagraph (a)by a percentage determined by the department. , shall be added to the net decommissioning cost. The escalationcontingency rate accounts for: estimated future inflation until the cost estimate is revised in accordance with Subsection (D). The escalation rate shall be determined by the department and shall not exceed three percent per annum; and

d. the total amount of the decommissioning cost estimate to be covered by the selected financial security instrument and approved by the department.
i.estimated future inflation until the cost estimate is revised in accordance with Subsection (D), not to exceed two percent per annum; and

ii.the margin of error inherent in estimations and allows for flexibility in responding to unexpected decommissioning costs.

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

89. 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 and the salvage value 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 entered into a decommissioning 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).

F. The secretary may grant an exemption from the decommissioning activities required in Subsection (A) upon a showing that the owner(s) of the land where the facility is situated have formally authorized decommissioning activities less than, or alternative to, those required in Subsection (A).

1. To qualify for the decommissioning exemption, the designated operator shall submit a request to the secretary that includes the following information:

a. a detailed written description of the alternate decommissioning plan;

b. a notice of lease(s) or other form of written agreement(s)written document, signed by all affected landowner(s) and two witnesses, that is evidence ofing unequivocal consent by the landowner(s) to the alternate decommissioning plan;

c. 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;

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

e. any other relevant information requested by the secretary to make a determination.

2. 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 alternate decommissioning proposal within 45 days of receipt. If public comments are requested, notice of the secretary's decision shall be issued within 30 days following the close of the public comment period. The designated operator may modify the facility's decommissioning plan and financial security instrument to reflect the approved or modified decommissioning plan.

§5115. Financial Security Requirements

A. Prior to construction, tThe designated operator of a solar power generation facility shall establish and submit 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.
~~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 by submitting to the department an acceptable form(s) of financial security ~~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 ~~gross~~ approved decommissioning cost estimate as set forth in Section 5113(C)(6~~7~~). The financial security instrument(s) ~~performance bond~~ must name the department as the beneficiary. The department will not release the financial security instrument(s)~~bond~~ until it receives proof that the facility was fully decommissioned as required by this Chapter or ~~received~~ receives a replacement form of ~~bond or other~~ financial security as provided herein. To ensure that the financial security instrument(s)~~performance bond~~ 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~~ation of the existing bond~~. The designated operator must submit a replacement financial security instrument(s) ~~performance bond or other financial security~~ consistent with the requirements of this Chapter no later than 30 days before the existing form(s) of financial security expires. ~~the expiration of the existing bond.~~ Failure to provide a replacement financial security instrument(s)~~performance bond or other financial security~~ 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)~~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 gross approved 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 or received a replacement letter(s) of credit or other financial security as provided herein. 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 or other financial security consistent with the requirements of this Chapter no later than~~

30 days before the expiration of the existing letter(s). Failure to provide a replacement letter(s) of credit or other financial security 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 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 amount of financial security required by this Chapter shall be adjusted by the department to conform to the facility's revised decommissioning plan in accordance with Section 5113(D).

E. The salvage value of solar devices, integrated equipment, and other materials associated with a facility may be deducted from the gross cost of decommissioning activitiescost estimate during the bankruptcy of the designated operator if the designated operator or facility owner provides the department with a lien of first priority in an amount equal to the salvage value as itemized in the decommissioning plan sufficient to assure , and the department that determines the salvageable materials will beare available ifduring decommissioning occurs during a bankruptcy of the designated operator.

§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 notice and identification, may enter the immovable property where the solar power generation facility is located at reasonable times for purposes of site inspection and decommissioning activities.

B. Failure of the designated operator to comply with all requirements set forth in this Chapter, after notice and opportunity to cure, 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. 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.

~~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; upon proper notice, identification, and at a reasonable time; 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, the designated operator and responsible parties are jointly and severally liable for compliance with all obligations and provisions of the decommissioning plan.

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.

§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.

§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 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

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~~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.
~~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. 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.
~~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.~~