

NOTICE OF INTENT

Department of Conservation and Energy Office of the Secretary

Regulation of Renewable Energy Storage Facilities (LAC 43:I.5501-5511)

The Department of Conservation and Energy, Office of the Secretary, in accordance with the Administrative Procedure Act, R.S. 49:950 *et seq.*, and under the authority of R.S. 30:1131 and Act 279 of the 2025 Regular Legislative Session, proposes to adopt LAC 43:I.5501-5511 to require permits to install batteries for renewable energy storage and regulations necessary to implement the decommissioning plan and proof of financial security requirements for facilities that utilize batteries.

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

Chapter 55. Renewable Energy Storage

§5501. Definitions

Abandoned—a facility that has not stored, discharged, or otherwise used its battery storage system for 12 consecutive months, except for good cause as determined by the department.

Battery—a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed. This definition includes and incorporates all current and future definitions of battery set forth in LAC 33:V. Chapters 38 and 41, and LAC 33:VII. Chapter 103.

Battery Storage System—all batteries, integrated equipment, and other materials used to receive, store, and discharge electrical energy produced from a renewable energy generation facility.

Decommission—the minimum requirements for the removal and recycling or disposal of all batteries, devices, integrated equipment, and materials of a facility's battery storage system, and restoration of land on which the facility is located. The secretary may consult with the department and other state or federal agencies to determine the type and scope of activities reasonably necessary to restore the land.

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

Facility—a facility that utilizes a battery storage system to store electrical energy produced by a renewable energy generation facility, whether the battery storage system is located at or integrated into a renewable energy generation facility, or is operated as a separate, standalone renewable energy storage facility. This definition includes, without limitation, any concrete or metal foundations and structures; electrical transformers, inverters, and controllers; above- and underground wires and conduit; telecommunications equipment; roads; meteorological stations; switchyards; maintenance yards; and security fencing used to construct and operate the battery storage system and facility.

Operator—any person or legal entity that controls or manages a facility and is responsible for complying with all requirements set forth in this Chapter.

Renewable Energy Generation Facility—all devices, integrated equipment, and materials that generate electricity from solar, wind, and other renewable resources.

Secretary—the secretary of the Department of Conservation and Energy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

§5503. Applicability

A. These rules apply to all facilities that utilize a battery storage system to store electrical energy produced by a renewable energy generation facility. These rules do not apply to battery storage systems installed and used for residential property purposes or to standalone battery storage facilities that store electrical energy received from the electrical grid or from a generating source other than a renewable energy generation facility.

B. Nothing in this Chapter shall be construed as:

1. limiting the extent to which an operator of a facility with a battery storage system must comply with all other relevant federal, state, and local laws, rules, ordinances, and permit conditions; and
2. requiring the department to enforce and monitor compliance with laws, regulations, and standards of other federal agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

§5505. General Requirements

A. A facility shall at all times have an operator, who shall be responsible for compliance with all requirements of this Chapter.

B. The operator shall register with the department as set forth in LAC 43:I.5107.

C. No battery used for renewable energy storage shall be installed at a facility without a permit issued by the department pursuant to this Chapter. When feasible and upon request, the department may combine the permit application and its requirements under this Chapter with other permit applications 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 operator shall notify the department in writing within 60 days after transferring the permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

§5507. Permit Requirements

A. To obtain a permit in accordance with this Chapter, the operator of a facility shall submit a permit application to the department. A permit application shall include the following information and documents:

1. a copy of the operator's registration form;
2. the name, location, projected storage capacity, and expected lifespan of the facility and the batteries installed;
3. a detailed and labeled plat, survey, or map of the facility that identifies and illustrates the location of the batteries to be installed;
4. the name, mailing address, email address, and phone number of the operator and, if applicable, the federal employer identification number and a copy of the detailed business record from the Secretary of State's website;
5. a decommissioning plan prepared in accordance with Section 5509(B); and
6. proof of the form(s) of financial security that secures the cost to decommission a facility's battery storage system as provided by Section 5511;
7. any other information required by the department for issuing permits under this Subpart or that is relevant and reasonable to implement this Chapter.

B. Within 60 days of receipt, the department shall review each permit application to determine if it is administratively complete and meets all the requirements of this Chapter and Subpart when applicable.

1. If the department determines an application is administratively complete, the department shall issue a written notice to the operator certifying that the application is administratively complete and has been moved to technical review.

2. If the department finds the application is not administratively complete, the department shall provide written notice of each deficiency to the operator and suspend further review pending resolution of the deficiencies. Upon request and a showing of good cause by the operator, the department may extend the 30-day submission deadline. Failure to timely correct or provide the information identified in the notice shall constitute abandonment of the application, but shall not preclude the operator from reapplying for a permit under this Chapter or Subpart.

C. The timing of the technical review and when the department issues its final permit decision depends on whether the facility is subject to multiple permits under this Subpart. For example, a solar power generation facility with a battery storage system shall be subject to the timing of Section 5109. For separate, standalone renewable energy storage facilities, the department shall issue a final decision within 60 days of certifying the application as administratively complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

§5509. Decommissioning Requirements

A. All facilities that utilize a battery storage system shall be decommissioned in accordance with this and other applicable Chapters under this Subpart. Each facility and its battery storage system shall be decommissioned within 18 months after its final day of use. The operator shall notify the department in writing within 30 days of the facility's final day of storage operations.

1. A facility is presumed to have reached its final day of utilizing its battery storage system if the batteries have not stored energy for 12 consecutive months. The operator may rebut the presumption by providing written notice to the department showing good cause thereof and, if applicable, providing a timeline for recommencement of battery storage operations.

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 and Subpart as applicable.

b. If the department determines that good cause was not shown, it may order the operator to recommence storage operations 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 and Subpart as applicable.

2. If a force majeure event unreasonably hinders or prevents decommissioning within 18 months of the facility's final day of storage operations, the operator shall notify the department in writing 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 the decommissioning plan, and any documentation supporting inability to comply with the applicable deadline. If the department determines that the circumstances warrant an extension, it shall provide a reasonable deadline for compliance to the operator in writing. The department may order the operator to submit one or more written reports illustrating good faith efforts to resume decommissioning in accordance with the deadline.

B. A decommissioning plan is required to obtain a permit under this Chapter. A facility's decommissioning plan shall be prepared, signed, and sealed by a Louisiana-licensed engineer and shall meet the following requirements:

1. Facility Description. The operator must provide information regarding the types of batteries to be used, including the manufacturer and model, expected storage capacity, and expected operational lifespan. The operator must include in the plan an itemized inventory of the number of battery cells, modules, racks, containers, battery management systems, and other equipment used to monitor battery conditions. The detailed plat, survey, and/or map of the facility must identify and illustrate the location of the batteries and related equipment to be installed, including, all foundations and structures; electrical transformers, inverters, and controllers; above- and underground wires and conduit; telecommunications equipment; roads; meteorological stations; switchyards; maintenance yards; and security fencing used to construct and operate the battery storage system and facility.

2. Decommissioning Activities. The operator must provide information relating to the anticipated labor, equipment, and transportation needed to dismantle, remove, recycle, and dispose of all batteries and components of the battery storage system, along with restoring the land after removal of all foundations, structures, and other materials that supported the facility.

3. Decommissioning Schedule. The operator must provide information on the anticipated sequence of decommissioning activities and the anticipated period of time needed to complete such activities.

4. Waste Management. The operator must identify all battery chemistries and associated components that are hazardous materials and may be present during decommissioning. The operator must also provide a summary of these materials and must ensure that the materials are properly recycled or disposed of in accordance with all applicable laws and regulations. It is the duty of the operator to ensure that the facility is compliant with the Department of Environmental Quality regulations pertaining to Universal Wastes in LAC 33:V. Ch. 38, Recyclable Materials in LAC 33:V. Ch. 41 or Recycling and Waste Reduction in LAC 33:VII. Ch. 103.

5. Decommissioning Cost Estimate. The operator must provide an estimate of the cost of performing all decommissioning activities described within the decommissioning plan. The plan shall provide the estimate in an itemized schedule that is formatted to show each of the following:

a. the cost of all activities to decommission the battery storage system and facility;

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

c. the total estimated amount of decommissioning (*i.e.*, the sum of (a) and (b)) to be covered by the selected financial security instrument and approved by the department.

6. Financial Security. The operator must identify and provide proof of the financial security instrument chosen to secure the cost of decommissioning the batteries and related storage infrastructure.

7. Emergency Plans. The operator must include details regarding the types of emergency detection and suppression equipment to be installed and a statement of committed assurance that the operator will establish an emergency plan in conjunction with local authorities.

C. The decommissioning plan and decommissioning 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 (B) and must include all relevant adjustments to the cost estimate.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

§5511. Financial Security Requirements

A. The operator of a facility shall provide the department with proof of financial security in an amount that will ensure sufficient funds are available to decommission the battery storage system and facility.

B. Acceptable forms of financial security may include a performance bond, irrevocable letter(s) of credit, or any other instrument approved by the secretary through formal order, or a combination thereof. The financial security instrument(s) must name the department as the beneficiary, cover 100 percent of the approved decommissioning cost estimate, and be provided to the department before installing batteries at the facility.

C. The department will not release the financial security instrument(s) until it receives proof that the facility was fully decommissioned as required by this Chapter or receives a replacement form of financial security as provided herein. To ensure that the financial security instrument(s) is properly maintained, the designated operator shall provide the department with written notice at least 120 days before the existing form(s) of financial security expires. The designated operator must submit a replacement financial security instrument(s) consistent with the requirements of this Chapter no later than 30 days before the existing form(s) of financial security expires. Failure to provide a replacement financial security instrument(s) before this 30-day period shall be deemed a violation of these rules and subject the designated operator to revocation of the facility's permit, the calling of the financial security instrument(s) and any other remedy authorized by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:1131.

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

Family Impact Statement

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

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

Poverty Impact Statement

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

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

Small Business Analysis

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

Provider Impact Statement

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

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

Public Comments

Interested persons may submit written comments on the proposed rule no later than Monday, October 12, 2026, by 4:30 p.m. Written comments should be addressed to Elizabeth Ferrier, Attorney, Office of Legal Services, Department of Conservation and Energy, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to DCE-Renewables@la.gov. Please reference “Renewable Energy Storage Regulations” in your comments and include your name and who you represent if someone other than yourself.

Public Hearing

Interested persons may submit a written request for a public hearing no later than Monday, October 12, 2026, by 4:30 p.m. Requests may be submitted either by mail, addressed to Elizabeth Ferrier, Attorney, Office of Legal Services, Department of Conservation and Energy, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to DCE-Renewables@la.gov. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, a public hearing will be held on Monday, October 26, 2026, at 9:00 a.m. in the Griffon Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, for all interested persons to attend and submit oral or written comments. Please visit the department’s website at <https://www.dce.louisiana.gov/page/hearing-comment-calendar> or email DCE-Renewables@la.gov after the request deadline to confirm if the public hearing is scheduled. In accordance with the Americans with Disabilities Act, please contact the department’s ADA Coordinator, Shannon Hunt, at (225) 342-4522 or by email at Shannon.Hunt@la.gov within 10 working days of the hearing if you need assistance or accommodations.

Dustin Davidson

Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Renewable Energy Storage**

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

The proposed rule is anticipated to result in indeterminable, but minimal costs to implement, related to operating costs such as office supplies, travel expenses, fuel costs, and vehicle maintenance. The proposed rule implements R.S. 30:1131 established by Act 279 of the 2025 Regular Session by establishing permitting requirements for renewable energy storage facilities to install batteries, including requirements for a decommissioning plan and proof of financial security.

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

Act 279 does not provide for or authorize an application or permit fee specifically for the renewable energy storage permit established pursuant to R.S. 30:1131. However, to the extent a facility is subject to multiple permitting requirements under Title 43, Part I, Subpart 5 of the Louisiana Administrative Code, the proposed rule allows permit applications to be combined to streamline regulatory compliance. In such cases, revenues may be generated from fees associated with other applicable permits, including solar facility permitting fees, which are deposited into the Mineral and Energy Operation Fund and may help offset costs associated with implementing and administering the proposed rule.

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

The proposed rule directly affects operators and persons with equity in or control over renewable energy generation facilities with storage capabilities and standalone renewable energy storage facilities by implementing the permitting requirements for the installation of batteries used to store electrical energy. Obtaining a permit will require submission of a decommissioning plan prepared by a Louisiana-licensed engineer and proof of financial security, resulting in additional costs that cannot be quantified because they will vary based on the size and complexity of each facility. Although the impact on receipts and income for individuals, small businesses, and nongovernmental groups is difficult to quantify due to limited publicly available information on proposed and existing renewable energy generation and storage facilities, the proposed rule is anticipated to have overall positive economic impacts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The permit, decommissioning, and proof of financial security set forth in the proposed rule are anticipated to have a neutral to positive impact on public and private sectors. Impacts cannot be determined as they vary based on the complexity and size of a facility but are expected to increase employment and business activity associated with the construction, operation, maintenance, engineering, consulting, transportation, and eventual decommissioning of batteries installed at facilities.

Dustin Davidson
Secretary
Department of Conservation and Energy

Legislative Fiscal Officer
Legislative Fiscal Office