

From: [Laura Almond](#)
To: apa.s-envq@legis.la.gov; ["apa.senatepresident@legis.la.gov"](mailto:apa.senatepresident@legis.la.gov); ["apa.h-natr@legis.la.gov"](mailto:apa.h-natr@legis.la.gov); ["apa.housespeaker@legis.la.gov"](mailto:apa.housespeaker@legis.la.gov)
Cc: [Aurelia Giacometto \(DEQ Secretary\)](#); [Noah Hoggatt \(DEQ\)](#); [Jill Clark](#)
Subject: Summary Report for Proposed Rule WQ115ft
Date: Wednesday, February 5, 2025 3:08:36 PM
Attachments: [WQ115ft NOI.pdf](#)

February 5, 2025

The Honorable Eddie J. Lambert, Chairman
c/o Committee Staff
Senate Committee on Environmental Quality

The Honorable Brett F. Geymann, Chairman
House Committee on Natural Resources and Environment
c/o Committee Staff

**RE: Summary Report for Proposed Rule WQ115ft
2024 Annual Incorporation by Reference of Certain Water Quality Regulations
(LAC 33:IX.4901 and 4903)
Proposed on December 20, 2024**

Pursuant to the Louisiana Administrative Procedure Act, the Louisiana Department of Environmental Quality is submitting a report regarding the above-referenced proposed rule, which was published in the *Louisiana Register*. Neither oral nor written comments were received. No changes have been made to the proposed rule since the report provided for in R.S. 49:966(B) was submitted. Attached is the Notice of Intent for informational purposes. The original proposed rule was previously provided to you and is not being resubmitted with this report.

We would appreciate it if you would acknowledge receipt of this message by return email. Please contact Laura Almond at laura.almond@la.gov or (225) 219-3981 if you have any questions regarding this material.

Sincerely yours,

W. Noah Hoggatt
Executive Counsel

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This concludes this transmission.

Laura Almond
Environmental Project Specialist
Louisiana Department of Environmental Quality
Legal Affairs Division

(225) 219-3985

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

Public Comments

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

Public Hearing

A public hearing will be held on Tuesday, January 28, 2025, at 9 a.m. in the Griffon Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802. In accordance with the Americans with Disabilities Act, if you need assistance or accommodation for the meeting, please contact DENR's ADA Coordinator, Clarissa Adams, at (225) 219-3853 or via email at Clarissa.Adams3@la.gov within 10 working days of the hearing date.

Tyler Gray
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation of Solar Power Generation Facilities

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

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

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

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

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

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

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

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

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

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Mark Normand, Jr.
Undersecretary
2412#059

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2024 Annual Incorporation by Reference of Certain Water Quality Regulations (LAC 33:IX.4901 and 4903) (WQ115ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ115ft).

This Rule is identical to federal regulations found in 40 CFR 136 and 40 CFR, Chapter I, Subchapter N, Parts 401, 405-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact William Little at (225) 219-3985. No fiscal or economic impact will result from the proposed Rule. This Rule will be

promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule updates the reference dates for 40 Code of Federal Regulations (CFR) Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, and 40 CFR Chapter I, Subchapter N, Parts 401, 405-471, Effluent Guidelines and Standards in LAC 33:IX.4901 and 4903. This Rule will incorporate the recently updated federal regulations into Louisiana's water quality regulations. This revision increases the enforceability of Louisiana Pollutant Discharge Elimination System (LPDES) permits that include the Environmental Protection Agency approved analytical methods and effluent limitation guidelines. The published edition of the 40 CFR is updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2024. the basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2024, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2135 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:330 (March 2020), LR 47:357 (March 2021), amended by the Office of the Secretary, Legal Affairs Division, LR 51:

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405 471, July 1, 2024 are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary,

Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014), LR 41:2136 (October 2015), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2148 (November 2017), LR 46:331(March 2020), LR 47:357 (March 2021), amended by the Office of the Secretary, Legal Affairs Division, LR 51:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:978.1 - 978.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ115ft. Such comments must be received no later than January 28, 2025, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this proposed Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ115ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Public Hearing

A public hearing will be held on January 28, 2025, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend in person or via Zoom at <https://deqlouisiana.zoom.us/j/6836133613?omn=99777855430> or by phone (646) 255-1997 Meeting ID 683 613 3613. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below or at (225) 219-1325.

Aurelia S. Giacometto
Secretary