

SENATE BILL No. 411

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-28.6; IC 8-1.

Synopsis: Commercial solar and wind energy. Establishes within the Indiana economic development corporation (IEDC) the commercial solar and wind energy ready communities development center (center). Sets forth the following duties of the center: (1) Providing and making easily accessible comprehensive information concerning permits required for commercial solar projects, wind power projects, and related business activities in Indiana. (2) Working with permit authorities for such projects. Provides that in addition to these duties, the center shall create and administer: (1) a program to certify a unit as a commercial solar energy ready community; and (2) a program to certify a unit as a wind energy ready community. Provides that the IEDC shall certify a unit as a commercial solar energy ready community if the unit meets certain requirements, including the adoption of a commercial solar regulation that includes standards that are not more restrictive than the default standards for commercial solar energy systems set forth in the bill. Provides that if: (1) a unit receives certification as a commercial solar energy ready community; and (2) after the unit's certification, a project owner develops a commercial solar project in the unit; the IEDC shall authorize the unit to receive for a period of 10 years, beginning with the start date of the commercial solar project's full commercial operation, \$1 per megawatt hour of electricity generated by the commercial solar project, if the IEDC determines that the procedures and standards set forth in the unit's commercial solar regulation were adhered to in the development of the project. Provides that if the IEDC determines at any time during this 10 year period that the unit has failed to continue to maintain: (1) the
(Continued next page)

Effective: July 1, 2022.

Messmer

January 12, 2022, read first time and referred to Committee on Utilities.



standards and procedural framework set forth in the unit's commercial solar regulation; and (2) all applicable zoning, land use, and planning regulations; with respect to the project, the corporation shall discontinue the incentive and shall require the unit to return to the project owner any amounts collected by the unit after the unit's breach. Sets forth the same requirements for a unit to receive: (1) certification as a wind energy ready community; and (2) the per megawatt hour incentive for wind energy produced by a wind power project approved under the unit's wind power regulation. Establishes default standards concerning the following with respect to wind power projects in units that are certified as wind energy ready communities, or that otherwise adopt the standards: (1) Setback requirements. (2) Height restrictions. (3) Shadow flicker limitations. (4) Signal interference. (5) Sound level limitations. (6) Wind turbine light mitigation technology. (7) Required repairs to drainage related infrastructure. (8) Project decommissioning. Establishes default standards concerning the following with respect to commercial solar projects in units that are certified as commercial solar energy ready communities, or that otherwise adopt the standards: (1) Setback requirements. (2) Height restrictions. (3) Ground cover. (4) Fencing. (5) Cables. (6) Glare. (7) Signal interference. (8) Sound level limitations. (9) Required repairs to drainage related infrastructure. (10) Project decommissioning.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

SENATE BILL No. 411

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-28.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]:

4 **Chapter 28.6. Commercial Solar and Wind Energy Ready**
5 **Communities**

6 **Sec. 1. As used in this chapter, "center" refers to the**
7 **commercial solar and wind energy ready communities**
8 **development center established by section 11 of this chapter.**

9 **Sec. 2. As used in this chapter, "commercial solar project"**
10 **means a project involving the construction, installation, siting,**
11 **modification, operation, or decommissioning of one (1) or more**
12 **commercial solar energy systems (as defined in IC 8-1-42-2) in a**
13 **unit.**

14 **Sec. 3. As used in this chapter, "commercial solar regulation"**
15 **has the meaning set forth in IC 8-1-42-3.**

2022

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1 **Sec. 4.** As used in this chapter, "permit", with respect to a
2 project, means any state or local permit, license, certificate,
3 approval, registration, or similar form of approval required by
4 statute, administrative rule, regulation (including a commercial
5 solar regulation or a wind power regulation), ordinance, or
6 resolution.

7 **Sec. 5.** As used in this chapter, "permit authority" has the
8 meaning set forth in:

- 9 (1) IC 8-1-41-4, in the case of a wind power project; or
10 (2) IC 8-1-42-6, in the case of a commercial solar project.

11 **Sec. 6.** As used in this chapter, "project" refers to:

- 12 (1) a wind power project; or
13 (2) a commercial solar project.

14 **Sec. 7.** As used in this chapter, "project owner" has the meaning
15 set forth in:

- 16 (1) IC 8-1-41-5, in the case of a wind power project; or
17 (2) IC 8-1-42-7, in the case of a commercial solar project.

18 **Sec. 8.** As used in this chapter, "unit" means a county or a
19 municipality, as specified in:

- 20 (1) IC 8-1-41-6, in the case of a wind power project; or
21 (2) IC 8-1-42-8, in the case of a commercial solar project.

22 **Sec. 9.** As used in this chapter, "wind power project" means a
23 project involving the construction, installation, siting, modification,
24 operation, or decommissioning of one (1) or more wind power
25 devices (as defined in IC 8-1-41-7) in a unit.

26 **Sec. 10.** As used in this chapter, "wind power regulation" has
27 the meaning set forth in IC 8-1-41-8.

28 **Sec. 11.** (a) The commercial solar and wind energy ready
29 communities development center is established within the
30 corporation. The center has the following duties:

31 (1) Providing comprehensive information concerning permits
32 required for projects and related business activities in
33 Indiana, and making the information available and easily
34 accessible to:

- 35 (A) project owners;
36 (B) state and local government offices, departments, and
37 administrative entities; and
38 (C) the public.

39 (2) Working with permit authorities to encourage the timely
40 and efficient issuance of permits and the resolution of related
41 issues.

42 (b) In addition to the duties set forth in subsection (a), the center



1 shall create and administer the following programs:

2 (1) A program to certify a unit as a commercial solar energy
3 ready community under section 12 of this chapter.

4 (2) A program to certify a unit as a wind energy ready
5 community under section 13 of this chapter.

6 **Sec. 12. (a) A unit may apply to the corporation for certification
7 as a commercial solar energy ready community. The application
8 must be in a form and manner prescribed by the corporation. The
9 corporation shall approve an application and certify a unit as a
10 commercial solar energy ready community if the corporation
11 determines the following:**

12 (1) That the unit has adopted a resolution indicating support
13 for the development of commercial solar projects in the unit.

14 (2) That the unit has adopted a commercial solar regulation
15 that includes clear standards for the construction, installation,
16 siting, modification, operation, or decommissioning of one (1)
17 or more commercial solar energy systems (as defined in
18 IC 8-1-42-2) in the unit.

19 (3) That the unit's commercial solar regulation:

20 (A) includes standards that are not more restrictive,
21 directly or indirectly, than the default standards for
22 commercial solar energy systems set forth in IC 8-1-42;

23 (B) provides a clear and transparent process for project
24 owners to identify potential commercial solar project sites;

25 (C) does not unreasonably eliminate portions of the unit as
26 sites for commercial solar projects;

27 (D) provides for a fair review and approval process for
28 proposed commercial solar projects, including final
29 approval that cannot be revoked; and

30 (E) includes a specific plan for using any funds from an
31 incentive granted by the corporation under subsection (b):

32 (i) for economic development purposes within or near
33 the commercial solar project's footprint; or

34 (ii) to otherwise benefit residents and businesses within
35 or near the commercial solar project's footprint.

36 (4) That the unit has demonstrated a commitment to
37 maintain:

38 (A) the standards and procedural framework set forth in
39 the unit's commercial solar regulation; and

40 (B) all applicable zoning, land use, and planning
41 regulations;

42 with respect to any particular commercial solar project that



1 is approved under the unit's commercial solar regulation, for
 2 a period of at least ten (10) years, beginning with the start
 3 date of the commercial solar project's full commercial
 4 operation.

5 (b) If:

- 6 (1) a unit receives certification as a commercial solar energy
 7 ready community by the corporation under this section; and
 8 (2) after the unit's certification, a project owner develops a
 9 commercial solar project in the unit;

10 the corporation shall authorize the unit to receive for a period of
 11 ten (10) years, beginning with the start date of the commercial
 12 solar project's full commercial operation, one dollar (\$1) per
 13 megawatt hour of electricity generated by the commercial solar
 14 project, if the corporation determines that the procedures and
 15 standards set forth in the unit's commercial solar regulation were
 16 adhered to in the development of the project. However, if the
 17 corporation determines at any time after the start of the
 18 commercial solar project's full commercial operation that the unit
 19 has failed to continue to meet the requirement for certification set
 20 forth in subsection (a)(4), the corporation shall discontinue the
 21 incentive granted under this subsection and shall require the unit
 22 to return to the project owner any amounts collected by the unit
 23 under this subsection after the unit's breach of the requirement for
 24 certification set forth in subsection (a)(4).

25 Sec. 13. (a) A unit may apply to the corporation for certification
 26 as a wind energy ready community. The application must be in a
 27 form and manner prescribed by the corporation. The corporation
 28 shall approve an application and certify a unit as a wind energy
 29 ready community if the corporation determines the following:

- 30 (1) That the unit has adopted a resolution indicating support
 31 for the development of wind power projects in the unit.
 32 (2) That the unit has adopted a wind power regulation that
 33 includes clear standards for the construction, installation,
 34 siting, modification, operation, or decommissioning of one (1)
 35 or more wind power devices (as defined in IC 8-1-41-7) in the
 36 unit.
 37 (3) That the unit's wind power regulation:
 38 (A) includes standards that are not more restrictive,
 39 directly or indirectly, than the default standards for wind
 40 power devices set forth in IC 8-1-41;
 41 (B) provides a clear and transparent process for project
 42 owners to identify potential wind power project sites;



- 1 (C) does not unreasonably eliminate portions of the unit as
 2 sites for wind power projects;
 3 (D) provides for a fair review and approval process for
 4 proposed wind power projects, including final approval
 5 that cannot be revoked; and
 6 (E) includes a specific plan for using any funds from an
 7 incentive granted by the corporation under subsection (b):
 8 (i) for economic development purposes within or near
 9 the wind power project's footprint; or
 10 (ii) to otherwise benefit residents and businesses within
 11 or near the wind power project's footprint.
 12 (4) That the unit has demonstrated a commitment to
 13 maintain:
 14 (A) the standards and procedural framework set forth in
 15 the unit's wind power regulation; and
 16 (B) all applicable zoning, land use, and planning
 17 regulations;
 18 with respect to any particular wind power project that is
 19 approved under the unit's commercial solar regulation, for a
 20 period of at least ten (10) years, beginning with the start date
 21 of the wind power project's full commercial operation.
 22 (b) If:
 23 (1) a unit receives certification as a wind energy ready
 24 community by the corporation under this section; and
 25 (2) after the unit's certification, a project owner develops a
 26 wind power project in the unit;
 27 the corporation shall authorize the unit to receive for a period of
 28 ten (10) years, beginning with the start date of the wind power
 29 project's full commercial operation, one dollar (\$1) per megawatt
 30 hour of electricity generated by the wind power project, if the
 31 corporation determines that the procedures and standards set
 32 forth in the unit's wind power regulation were adhered to in the
 33 development of the project. However, if the corporation determines
 34 at any time after the start of the wind power project's full
 35 commercial operation that the unit has failed to continue to meet
 36 the requirement for certification set forth in subsection (a)(4), the
 37 corporation shall discontinue the incentive granted under this
 38 subsection and shall require the unit to return to the project owner
 39 any amounts collected by the unit under this subsection after the
 40 unit's breach of the requirement for certification set forth in
 41 subsection (a)(4).
 42 Sec. 14. A unit may be certified as both:



1 **(1) a commercial solar energy ready community under section**
 2 **12 of this chapter; and**

3 **(2) a wind energy ready community under section 13 of this**
 4 **chapter;**

5 **if the unit meets the requirements for certification set forth in both**
 6 **sections 12 and 13 of this chapter.**

7 SECTION 2. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS
 8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2022]:

10 **Chapter 41. Default Standards for Wind Power Devices**

11 **Sec. 1. (a) Except as provided in subsections (c) and (d), and**
 12 **subject to section 9(b) of this chapter, the standards set forth in**
 13 **sections 10 through 16 of this chapter apply to a project owner**
 14 **that, after June 30, 2022, submits an initial request for a project to**
 15 **install or locate one (1) or more wind power devices in a unit that**
 16 **has been certified as a wind energy ready community under**
 17 **IC 5-28-28.6.**

18 **(b) Except as provided in subsections (c) and (d), and subject to**
 19 **section 9(b) of this chapter, one (1) or more particular standards**
 20 **set forth in sections 10 through 16 of this chapter apply to a project**
 21 **owner that submits an initial request for a project to install or**
 22 **locate one (1) or more wind power devices in a unit that has in**
 23 **effect a wind power regulation that includes those particular**
 24 **standards at the time the project owner's initial request is**
 25 **submitted.**

26 **(c) Subject to a unit's planning and zoning powers under**
 27 **IC 36-7, this chapter does not apply to a property owner that seeks**
 28 **to install a wind power device on the property owner's premises for**
 29 **the purpose of generating electricity to meet or offset all or part of**
 30 **the need for electricity on the premises, whether through**
 31 **distributed generation, participation in a net metering or**
 32 **feed-in-tariff program offered by an electricity supplier (as defined**
 33 **in IC 8-1-40-4), or otherwise.**

34 **(d) A standard set forth in sections 10 through 16 of this chapter**
 35 **does not apply to any of the following, unless the standard is**
 36 **already agreed to before July 1, 2022, by the parties involved:**

37 **(1) Any proposal, request, or application that:**

38 **(A) concerns the construction, installation, siting,**
 39 **modification, operation, or decommissioning of one (1) or**
 40 **more wind power devices in a unit;**

41 **(B) is submitted by a project owner to a unit before July 1,**
 42 **2022; and**



1 (C) is pending as of July 1, 2022;
 2 as set forth in IC 36-7-4-1109.

3 (2) The:

- 4 (A) construction;
 5 (B) installation;
 6 (C) siting;
 7 (D) modification;
 8 (E) operation; or
 9 (F) decommissioning;

10 of one (1) or more wind power devices in a unit that before
 11 July 1, 2022, has approved such construction, installation,
 12 siting, modification, operation, or decommissioning.

13 (3) Any:

- 14 (A) economic development agreement; or
 15 (B) other agreement;

16 entered into before July 1, 2022, with respect to the
 17 construction, installation, siting, modification, operation, or
 18 decommissioning of one (1) or more wind power devices in
 19 one (1) or more units.

20 Sec. 2. As used in this chapter, "dwelling" means any building,
 21 structure, or part of a building or structure that is occupied as, or
 22 is designed or intended for occupancy as, a residence by one (1) or
 23 more families or individuals.

24 Sec. 3. (a) As used in this chapter, "nonparticipating property"
 25 means a lot or parcel of real property:

- 26 (1) that is not owned by a project owner; and
 27 (2) with respect to which:

28 (A) the project owner does not seek:

29 (i) to install or locate one (1) or more wind power devices
 30 or other facilities related to a wind power project
 31 (including power lines, temporary or permanent access
 32 roads, or other temporary or permanent infrastructure);
 33 or

34 (ii) to otherwise enter into a lease or any other
 35 agreement with the owner of the property for use of all
 36 or part of the property in connection with a wind power
 37 project; or

38 (B) the owner of the property does not consent:

39 (i) to having one (1) or more wind power devices or other
 40 facilities related to a wind power project (including
 41 power lines, temporary or permanent access roads, or
 42 other temporary or permanent infrastructure) installed



1 or located; or

2 (ii) to otherwise enter into a lease or any other
3 agreement with the project owner for use of all or part
4 of the property in connection with a wind power project.

5 (b) The term does not include a lot or parcel of real property
6 otherwise described in subsection (a) if the owner of the lot or
7 parcel consents to participate in a wind power project through a
8 neighbor agreement, a participation agreement, or another similar
9 arrangement or agreement with a project owner.

10 Sec. 4. (a) As used in this chapter, "permit authority" means:

11 (1) a unit; or

12 (2) a board, a commission, or any other governing body of a
13 unit;

14 that makes legislative or administrative decisions concerning the
15 construction, installation, siting, modification, operation, or
16 decommissioning of wind power devices in the unit.

17 (b) The term does not include:

18 (1) the state or any of its agencies, departments, boards,
19 commissions, authorities, or instrumentalities; or

20 (2) a court or other judicial body that reviews decisions or
21 rulings made by a permit authority.

22 Sec. 5. (a) As used in this chapter, "project owner" means a
23 person that:

24 (1) will own one (1) or more wind power devices proposed to
25 be located in a unit; or

26 (2) owns one (1) or more wind power devices located in a unit.

27 (b) The term includes an agent or a representative of a person
28 described in subsection (a).

29 (c) The term does not include an electricity supplier (as defined
30 in IC 8-1-2.3-2).

31 Sec. 6. (a) As used in this chapter, "unit" refers to:

32 (1) a county, if a project owner, as part of a single wind power
33 project or development, seeks to locate one (1) or more wind
34 power devices:

35 (A) entirely within unincorporated areas of the county;

36 (B) within both unincorporated areas of the county and
37 one (1) or more municipalities within the county; or

38 (C) entirely within two (2) or more municipalities within
39 the county; or

40 (2) a municipality, if:

41 (A) a project owner, as part of a single wind power project
42 or development, seeks to locate one (1) or more wind



1 power devices entirely within the boundaries of the
 2 municipality; and

3 (B) subdivision (1)(B) or (1)(C) does not apply.

4 (b) The term refers to:

5 (1) each county described in subsection (a)(1) in which a
 6 project owner seeks to locate one (1) or more wind power
 7 devices, if the project owner seeks to locate wind power
 8 devices in more than one (1) county as part of a single wind
 9 power project or development; and

10 (2) each municipality described in subsection (a)(2) in which
 11 a project owner seeks to locate one (1) or more wind power
 12 devices, if the project owner seeks to locate wind power
 13 devices in two (2) or more municipalities, each of which is
 14 located in a different county.

15 Sec. 7. As used in this chapter, "wind power device" means a
 16 device, including a windmill or a wind turbine, that is designed to
 17 use the kinetic energy of moving air to provide mechanical energy
 18 or to produce electricity.

19 Sec. 8. As used in this chapter, "wind power regulation" refers
 20 to any ordinance or regulation, including any:

21 (1) zoning or land use ordinance or regulation; or

22 (2) general or specific planning ordinance or regulation;

23 that is adopted by a unit and that concerns the construction,
 24 installation, siting, modification, operation, or decommissioning of
 25 wind power devices in the unit.

26 Sec. 9. (a) A permit authority for a unit described in section 1(a)
 27 or 1(b) of this chapter is responsible for enforcing compliance with
 28 any standards set forth in sections 10 through 16 of this chapter
 29 that apply in the unit under section 1(a) or 1(b) of this chapter.

30 (b) A unit may:

31 (1) adopt and enforce a wind power regulation that includes
 32 standards that:

33 (A) concern the construction, installation, siting,
 34 modification, operation, or decommissioning of wind
 35 power devices in the unit; and

36 (B) are less restrictive than the standards set forth in this
 37 chapter;

38 (2) waive or make less restrictive any standard set forth in
 39 this chapter with respect to any particular:

40 (A) wind power device; or

41 (B) project to install one (1) or more wind power devices in
 42 the unit; or



1 (3) waive or make less restrictive any standard that is not set
2 forth in this chapter but that is included in a wind power
3 regulation adopted by the unit with respect to any particular:

4 (A) wind power device; or

5 (B) project to install one (1) or more wind power devices in
6 the unit.

7 (c) This chapter does not affect a unit's planning and zoning
8 powers under IC 36-7 with respect to the installation or siting of
9 one (1) or more wind power devices in the unit.

10 Sec. 10. (a) Subject to subsection (h), and except as otherwise
11 allowed by IC 36-7-4-1109, a project owner may not install or
12 locate a wind power device on property in a unit unless the
13 distance, measured as a straight line, from the vertical centerline
14 of the base of the wind power device to:

15 (1) the centerline of any:

16 (A) runway located on a public use airport, private use
17 airport, or municipal airport;

18 (B) public use highway, street, or road; or

19 (C) railroad easement or right-of-way; or

20 (2) the property line of any nonparticipating property;
21 is equal to a distance that is at least one and one-tenth (1.1) times
22 the wind power device's blade tip height, as measured from the
23 ground to the tip of the blade.

24 (b) Subject to subsection (h), and except as otherwise allowed by
25 IC 36-7-4-1109, a project owner may not install or locate a wind
26 power device on property in a unit unless the distance, measured
27 as a straight line, from the vertical centerline of the base of the
28 wind power device to the nearest point on the outer wall of a
29 dwelling located on a nonparticipating property is equal to a
30 distance that is at least three (3) times the wind power device's
31 blade tip height, as measured from the ground to the tip of the
32 blade.

33 (c) Except as otherwise allowed by IC 36-7-4-1109, a project
34 owner may not install or locate a wind power device on property
35 in a unit unless the distance, measured as a straight line, from the
36 vertical centerline of the base of the wind power device to the
37 nearest edge of the right-of-way for any utility transmission or
38 distribution line is equal to a distance that is at least one and
39 two-tenths (1.2) times the wind power device's blade tip height, as
40 measured from the ground to the tip of the blade.

41 (d) Except as otherwise allowed by IC 36-7-4-1109, a project
42 owner may not install or locate a wind power device on property



1 in a unit unless the distance, measured as a straight line, from the
 2 vertical centerline of the base of the wind power device to the
 3 property line of any undeveloped land within the unit that is zoned
 4 or platted for residential use is equal to a distance that is at least
 5 two (2) times the wind power device's blade tip height, as measured
 6 from the ground to the tip of the blade.

7 (e) Except as otherwise allowed by IC 36-7-4-1109, a project
 8 owner may not install or locate a wind power device on property
 9 in a unit unless the distance, measured as a straight line, from the
 10 vertical centerline of the base of the wind power device to the
 11 property line of a state park is equal to a distance of at least one (1)
 12 mile.

13 (f) A project owner may not install or locate a wind power
 14 device within a county unless the distance, measured as a straight
 15 line, from the vertical centerline of the base of the wind power
 16 device to the corporate boundaries of any municipality within the
 17 county is equal to a distance of at least one (1) mile. However, a
 18 municipality may waive or reduce the minimum distance
 19 prescribed by this subsection with respect to the installation of one
 20 (1) or more wind power devices.

21 (g) Except as otherwise allowed by IC 36-7-4-1109, a permit
 22 authority, with respect to the siting or construction of any wind
 23 power device within the unit, may not set a blade tip height
 24 limitation, through a wind power regulation or otherwise, that is
 25 more restrictive than the standards of the Federal Aviation
 26 Administration under 14 CFR Part 77 concerning the safe, efficient
 27 use and preservation of the navigable airspace.

28 (h) The distance requirements set forth in subsections (a)(2) and
 29 (b) may be waived with respect to the siting of any one (1) wind
 30 power device, subject to the written consent of the owner of each
 31 affected nonparticipating property.

32 Sec. 11. (a) Subject to subsection (c), and except as otherwise
 33 allowed by IC 36-7-4-1109, a project owner may not install or
 34 locate one (1) or more wind power devices in a unit unless the
 35 project owner demonstrates to the permit authority that with
 36 respect to each wind power device that the project owner seeks to
 37 install or locate in the unit:

38 (1) the project owner has used shadow flicker computer
 39 modeling to estimate the amount of shadow flicker anticipated
 40 to be caused by the wind power device; and

41 (2) the wind power device has been designed such that
 42 industry standard computer modeling indicates that any



1 dwelling on a nonparticipating property within the unit will
2 not experience more than thirty (30) hours per year of shadow
3 flicker under planned operating conditions for the wind
4 power device.

5 (b) After a project owner installs or locates a wind power device
6 in a unit, the project owner shall work with the owner of any
7 affected dwelling on a nonparticipating property to mitigate the
8 effects of shadow flicker to the extent reasonably practicable.

9 (c) The requirement set forth in subsection (a)(2) may be waived
10 with respect to any one (1) wind power device, subject to the
11 written consent of the owner of each affected nonparticipating
12 property.

13 Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, a wind
14 power device installed in a unit must be installed in a manner so as
15 to minimize and mitigate impacts to:

- 16 (1) television signals;
- 17 (2) microwave signals;
- 18 (3) agricultural global positioning systems;
- 19 (4) military defense radar;
- 20 (5) radio reception; or
- 21 (6) weather and doppler radar.

22 Sec. 13. (a) Subject to subsection (b), and except as otherwise
23 allowed by IC 36-7-4-1109, a project owner may not install or
24 locate a wind power device in a unit unless the project owner
25 demonstrates to the permit authority that the wind power device
26 will operate in a manner such that the sound attributable to the
27 wind power device will not exceed an hourly average sound level
28 of fifty (50) A-weighted decibels, as modeled at the outer wall of an
29 affected dwelling.

30 (b) The requirement set forth in subsection (a) may be waived
31 with respect to any one (1) wind power device, subject to the
32 written consent of the owner of each affected property.

33 Sec. 14. (a) As used in this section, "wind turbine light
34 mitigation technology" means any technology used in connection
35 with a wind power device to shield, limit, or otherwise mitigate the
36 amount, intensity, character, or visibility of light emitted from the
37 wind power device.

38 (b) Except as otherwise allowed by IC 36-7-4-1109, after
39 January 1, 2023, and to the extent permissible under federal law or
40 regulations, a project owner may not commence construction on a
41 wind power device on property in a unit unless the wind power
42 device is equipped with a wind turbine light mitigation technology,



1 subject to any supply chain constraints with respect to the
 2 technology. However, a permit authority shall waive this
 3 requirement if:

- 4 (1) the Federal Aviation Administration denies the project
 5 owner's application to use a wind turbine light mitigation
 6 technology; or
 7 (2) the project owner determines that the use of a wind
 8 turbine light mitigation technology is not economically
 9 feasible.

10 **Sec. 15.** This section applies with respect to a wind power device
 11 that is constructed or installed in a unit after June 30, 2022. Except
 12 as otherwise allowed by IC 36-7-4-1109, all damages to waterways,
 13 drainage ditches, field tiles, or other drainage related
 14 infrastructure caused by the construction, installation, or
 15 maintenance of a wind power device must be completely repaired
 16 by the project owner to near original condition so as to not impede
 17 the natural flow of water. All repairs must be completed within a
 18 reasonable period of time and:

- 19 (1) to the satisfaction of the unit; and
 20 (2) as stated in an applicable lease or another agreement with
 21 the landowner;

22 subject to applicable federal, state, and local drainage laws and
 23 regulations.

24 **Sec. 16. (a)** Subject to subsection (b), and except as otherwise
 25 allowed by IC 36-7-4-1109, a project owner may not install or
 26 locate a wind power device in a unit unless the project owner
 27 submits to the permit authority a decommissioning and site
 28 restoration plan, and posts a surety bond, or an equivalent means
 29 of security acceptable to the permit authority, including a parent
 30 company guarantee or an irrevocable letter of credit, in an amount
 31 equal to the estimated cost of decommissioning the wind power
 32 device, as calculated by a third party licensed or registered
 33 engineer, or by another person with suitable experience in the
 34 decommissioning of wind power devices, as agreed upon by the
 35 project owner and the permit authority. The required bond or
 36 other security shall be posted in increments such that the total
 37 amount of the bond or security posted is as follows:

- 38 (1) An amount equal to twenty-five percent (25%) of the total
 39 estimated decommissioning costs not later than the start date
 40 of the wind power device's full commercial operation. For
 41 purposes of this subdivision, the total estimated
 42 decommissioning costs shall be reevaluated by a third party



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licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) in connection with the:

- (A) fifth anniversary; and
- (B) tenth anniversary;

of the start date of the wind power device's full commercial operation, and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after each reevaluation.

(2) An amount equal to fifty percent (50%) of the total estimated decommissioning costs not later than the fifteenth anniversary of the start date of the wind power device's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority) in connection with the fifteenth anniversary of the start date of the wind power device's full commercial operation, and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after the reevaluation.

(3) An amount equal to one hundred percent (100%) of the total estimated decommissioning costs not later than the twentieth anniversary of the start date of the wind power device's full commercial operation. For purposes of this subdivision, the total estimated decommissioning costs shall be reevaluated by a third party licensed or registered engineer (or by another person with suitable experience in the decommissioning of wind power devices, as agreed upon by the project owner and the permit authority):

- (A) in connection with the twentieth anniversary of the start date of the wind power device's full commercial operation; and
- (B) at least once every succeeding five (5) year period after the twentieth anniversary of the start date of the wind power device's full commercial operation;

and the total amount of the bond or security posted under this subdivision shall be adjusted as necessary after each reevaluation.

(b) For purposes of this section, the estimated cost of



1 decommissioning a wind power device, as calculated by a licensed
 2 or registered professional engineer (or by another person with
 3 suitable experience in the decommissioning of wind power devices,
 4 as agreed upon by the project owner and the permit authority),
 5 shall be net of any estimated salvage value attributable to the wind
 6 power device at the time of decommissioning, unless the unit and
 7 the project owner agree to include any such value in the estimated
 8 cost.

9 SECTION 3. IC 8-1-42 IS ADDED TO THE INDIANA CODE AS
 10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2022]:

12 **Chapter 42. Default Standards for Commercial Solar Energy**
 13 **Systems**

14 **Sec. 1. (a) Except as provided in subsections (b) and (c), and**
 15 **subject to section 9(b) of this chapter, the standards set forth in**
 16 **sections 10 through 20 of this chapter apply to a project owner**
 17 **that, after June 30, 2022, submits an initial request for a project to**
 18 **install or locate one (1) or more CSE systems in a unit that has**
 19 **been certified as a commercial solar energy ready community**
 20 **under IC 5-28-28.6.**

21 **(b) Except as provided in subsections (c) and (d), and subject to**
 22 **section 9(b) of this chapter, one (1) or more particular standards**
 23 **set forth in sections 10 through 20 of this chapter apply to a project**
 24 **owner that submits an initial request for a project to install or**
 25 **locate one (1) or more CSE systems in a unit that has in effect a**
 26 **commercial solar regulation that includes those particular**
 27 **standards at the time the project owner's initial request is**
 28 **submitted.**

29 **(c) Subject to a unit's planning and zoning powers under**
 30 **IC 36-7, this chapter does not apply to a property owner who seeks**
 31 **to install a solar energy device (as defined in IC 32-23-4-3) on the**
 32 **property owner's premises for the purpose of generating electricity**
 33 **to meet or offset all or part of the need for electricity on the**
 34 **premises, whether through distributed generation, participation in**
 35 **a net metering or feed-in-tariff program offered by an electricity**
 36 **supplier (as defined in IC 8-1-40-4), or otherwise.**

37 **(d) A standard set forth in sections 10 through 20 of this chapter**
 38 **does not apply to any of the following, unless the standard is**
 39 **already agreed to before July 1, 2022, by the parties involved:**

40 **(1) Any proposal, request, or application that:**

41 **(A) concerns the construction, installation, siting,**
 42 **modification, operation, or decommissioning of one (1) or**



- 1 more CSE systems in a unit;
 2 **(B) is submitted by a project owner to a unit before July 1,**
 3 **2022; and**
 4 **(C) is pending as of July 1, 2022;**
 5 **as set forth in IC 36-7-4-1109.**
 6 **(2) The:**
 7 **(A) construction;**
 8 **(B) installation;**
 9 **(C) siting;**
 10 **(D) modification;**
 11 **(E) operation; or**
 12 **(F) decommissioning;**
 13 **of one (1) or more CSE systems in a unit that before July 1,**
 14 **2022, has approved such construction, installation, siting,**
 15 **modification, operation, or decommissioning.**
 16 **(3) Any:**
 17 **(A) economic development agreement; or**
 18 **(B) other agreement;**
 19 **entered into before July 1, 2022, with respect to the**
 20 **construction, installation, siting, modification, operation, or**
 21 **decommissioning of one (1) or more CSE systems in one (1) or**
 22 **more units.**
 23 **Sec. 2. (a) As used in this chapter, "commercial solar energy**
 24 **system", or "CSE system", means a system that:**
 25 **(1) has a nameplate capacity of at least ten (10) megawatts;**
 26 **and**
 27 **(2) captures and converts solar energy into electricity:**
 28 **(A) for the purpose of selling the electricity at wholesale;**
 29 **and**
 30 **(B) for use in locations other than where it is generated.**
 31 **(b) The term includes collection and feeder lines, generation tie**
 32 **lines, substations, ancillary buildings, solar monitoring stations,**
 33 **and accessory equipment or structures.**
 34 **Sec. 3. As used in this chapter, "commercial solar regulation"**
 35 **refers to any ordinance or regulation, including any:**
 36 **(1) zoning or land use ordinance or regulation; or**
 37 **(2) general or specific planning ordinance or regulation;**
 38 **that is adopted by a unit and that concerns the construction,**
 39 **installation, siting, modification, operation, or decommissioning of**
 40 **CSE systems in the unit.**
 41 **Sec. 4. As used in this chapter, "dwelling" means any building,**
 42 **structure, or part of a building or structure that is occupied as, or**



1 is designed or intended for occupancy as, a residence by one (1) or
2 more families or individuals.

3 **Sec. 5. (a) As used in this chapter, "nonparticipating property"**
4 **means a lot or parcel of real property:**

- 5 (1) that is not owned by a project owner; and
6 (2) with respect to which:

7 (A) the project owner does not seek:

- 8 (i) to install or locate one (1) or more CSE systems or
9 other facilities related to a CSE system project (including
10 power lines, temporary or permanent access roads, or
11 other temporary or permanent infrastructure); or
12 (ii) to otherwise enter into a lease or any other
13 agreement with the owner of the property for use of all
14 or part of the property in connection with a CSE system
15 project; or

16 (B) the owner of the property does not consent:

- 17 (i) to having one (1) or more CSE systems or other
18 facilities related to a CSE system project (including
19 power lines, temporary or permanent access roads, or
20 other temporary or permanent infrastructure) installed
21 or located; or
22 (ii) to otherwise enter into a lease or any other
23 agreement with the project owner for use of all or part
24 of the property in connection with a CSE system project.

25 (b) The term does not include a lot or parcel of real property
26 otherwise described in subsection (a) if the owner of the lot or
27 parcel consents to participate in a CSE system project through a
28 neighbor agreement, a participation agreement, or another similar
29 arrangement or agreement with a project owner.

30 **Sec. 6. (a) As used in this chapter, "permit authority" means:**

- 31 (1) a unit; or
32 (2) a board, a commission, or any other governing body of a
33 unit;

34 that makes legislative or administrative decisions concerning the
35 construction, installation, siting, modification, operation, or
36 decommissioning of CSE systems in the unit.

37 (b) The term does not include:

- 38 (1) the state or any of its agencies, departments, boards,
39 commissions, authorities, or instrumentalities; or
40 (2) a court or other judicial body that reviews decisions or
41 rulings made by a permit authority.

42 **Sec. 7. (a) As used in this chapter, "project owner" means a**



- 1 person that:
- 2 (1) will own one (1) or more CSE systems proposed to be
- 3 located in a unit; or
- 4 (2) owns one (1) or more CSE systems located in a unit.
- 5 (b) The term includes an agent or a representative of a person
- 6 described in subsection (a).
- 7 (c) The term does not include an electricity supplier (as defined
- 8 in IC 8-1-2.3-2).
- 9 Sec. 8. (a) As used in this chapter, "unit" refers to:
- 10 (1) a county, if a project owner, as part of a single CSE system
- 11 project or development, seeks to locate one (1) or more CSE
- 12 systems:
- 13 (A) entirely within unincorporated areas of the county;
- 14 (B) within both unincorporated areas of the county and
- 15 one (1) or more municipalities within the county; or
- 16 (C) entirely within two (2) or more municipalities within
- 17 the county; or
- 18 (2) a municipality, if:
- 19 (A) a project owner, as part of a single CSE system project
- 20 or development, seeks to locate one (1) or more CSE
- 21 systems entirely within the boundaries of the municipality;
- 22 and
- 23 (B) subdivision (1)(B) or (1)(C) does not apply.
- 24 (b) The term refers to:
- 25 (1) each county described in subsection (a)(1) in which a
- 26 project owner seeks to locate one (1) or more CSE systems, if
- 27 the project owner seeks to locate CSE systems in more than
- 28 one (1) county as part of a single CSE system project or
- 29 development; and
- 30 (2) each municipality described in subsection (a)(2) in which
- 31 a project owner seeks to locate one (1) or more CSE systems,
- 32 if the project owner seeks to locate CSE systems in two (2) or
- 33 more municipalities, each of which is located in a different
- 34 county.
- 35 Sec. 9. (a) A permit authority for a unit described in section 1(a)
- 36 or 1(b) of this chapter is responsible for enforcing compliance with
- 37 any standards set forth in sections 10 through 20 of this chapter
- 38 that apply in the unit under section 1(a) or 1(b) of this chapter.
- 39 (b) A unit may:
- 40 (1) adopt and enforce a commercial solar regulation that
- 41 includes standards that:
- 42 (A) concern the construction, installation, siting,



- 1 **modification, operation, or decommissioning of CSE**
 2 **systems in the unit; and**
 3 **(B) are less restrictive than the standards set forth in this**
 4 **chapter;**
 5 **(2) waive or make less restrictive any standard set forth in**
 6 **this chapter with respect to any particular:**
 7 **(A) CSE system; or**
 8 **(B) project to install one (1) or more CSE systems in the**
 9 **unit; or**
 10 **(3) waive or make less restrictive any standard that is not set**
 11 **forth in this chapter but that is included in a commercial solar**
 12 **regulation adopted by the unit with respect to any particular:**
 13 **(A) CSE system; or**
 14 **(B) project to install one (1) or more CSE systems in the**
 15 **unit.**
 16 **(c) This chapter does not affect a unit's planning and zoning**
 17 **powers under IC 36-7 with respect to the installation or siting of**
 18 **one (1) or more CSE systems in the unit.**
 19 **Sec. 10. (a) Subject to subsection (e), and except as otherwise**
 20 **allowed by IC 36-7-4-1109, a project owner may not install or**
 21 **locate a CSE system on property in a unit unless the distance,**
 22 **measured as a straight line, from the nearest outer edge of the CSE**
 23 **system to:**
 24 **(1) the nearest edge of the right-of-way for any:**
 25 **(A) federal interstate highway, federal highway, state**
 26 **highway, or county highway is at least forty (40) feet;**
 27 **(B) collector road is at least thirty (30) feet; or**
 28 **(C) local road is at least ten (10) feet; or**
 29 **(2) the property line of any nonparticipating property is at**
 30 **least fifty (50) feet.**
 31 **(b) Subject to subsection (e), and except as otherwise allowed by**
 32 **IC 36-7-4-1109, a project owner may not install or locate a CSE**
 33 **system on property in a unit unless the distance, measured as a**
 34 **straight line, from the nearest outer edge of the CSE system to the**
 35 **nearest point on the outer wall of a dwelling located on a**
 36 **nonparticipating property is at least one hundred fifty (150) feet.**
 37 **(c) Subject to subsection (e), and except as otherwise allowed by**
 38 **IC 36-7-4-1109, if a project owner installs a CSE system within a**
 39 **distance of two hundred fifty (250) feet, measured as a straight**
 40 **line, from the nearest outer edge of the CSE system to the nearest**
 41 **point on the outer wall of a dwelling located on a nonparticipating**
 42 **property, the project owner shall install a landscape buffer in the**



1 area between the nearest outer edge of the CSE system and the
 2 outer wall of the dwelling located on the nonparticipating
 3 property:

- 4 (1) in a location; and
 5 (2) constructed from such materials;

6 as set forth in a plan submitted to the unit during the permitting
 7 and approval process for the CSE system.

8 (d) Except as otherwise allowed by IC 36-7-4-1109, a project
 9 owner may not install or locate a CSE system on property in a unit
 10 unless the height of the CSE system solar panels are not more than
 11 twenty-five (25) feet above ground level when the CSE system's
 12 arrays are at full tilt. However, a permit authority or a unit may
 13 not impose a clearance requirement between the ground and the
 14 bottom edge of a CSE system's solar panels.

15 (e) The:

- 16 (1) distance requirements set forth in subsection (a)(2) and
 17 subsection (b); and
 18 (2) requirement for the installation of a landscape buffer set
 19 forth in subsection (c);

20 may be waived with respect to the siting of any one (1) CSE system,
 21 subject to the written consent of the owner of each affected
 22 nonparticipating property.

23 Sec. 11. Except as otherwise allowed by IC 36-7-4-1109, if a
 24 project owner installs a CSE system in a unit, the project owner
 25 shall plant, establish, and maintain for the life of the CSE system
 26 perennial vegetated ground cover on the ground around and under
 27 solar panels, and in project site buffer areas. The use of pollinator
 28 seed mixes in the planting of ground cover required by this section
 29 is encouraged. A unit or permit authority may require a project
 30 owner to prepare for a project site a vegetation plan that:

- 31 (1) is compatible with each CSE system on the project site;
 32 (2) provides for the planting of noninvasive species and the
 33 use of native or naturalized species if the planting and use of
 34 noninvasive and native or naturalized species are:
 35 (A) appropriate to the region;
 36 (B) economically feasible; and
 37 (C) agreed to by the landowner;

38 in order to reduce storm water runoff and erosion at the site
 39 and to provide habitat for wildlife and insects; and

- 40 (3) provides for site preparation and maintenance practices
 41 designed to control invasive species and noxious weeds (as
 42 defined in IC 15-16-7-2).



1 **Sec. 12.** Except as otherwise allowed by IC 36-7-4-1109, if a
2 project owner installs a CSE system in a unit, the project owner
3 shall completely enclose the CSE system with fencing that is at
4 least six (6) feet high.

5 **Sec. 13.** Except as otherwise allowed by IC 36-7-4-1109, if a
6 project owner installs a CSE system in a unit, all cables of up to
7 thirty-four and one-half (34.5) kilovolts that are located between
8 inverter locations and project substations shall be located and
9 maintained underground. Other solar infrastructure, such as
10 module-to-module collection cables, transmission lines, substations,
11 junction boxes, and other typical aboveground infrastructure may
12 be located and maintained above ground. Buried cables shall be at
13 a depth of at least thirty-six (36) inches below grade or, if
14 necessitated by onsite conditions, at a greater depth. Cables and
15 lines located outside of the CSE system project site may:

16 (1) be located above ground; or

17 (2) in the case of cables or lines of up to thirty-four and
18 one-half (34.5) kilovolts, be buried underground at:

19 (A) a depth of at least forty-eight (48) inches below grade,
20 so as to not interfere with drainage tile or ditch repairs; or

21 (B) another depth, as necessitated by conditions;
22 as determined in consultation with the landowner.

23 **Sec. 14.** Except as otherwise allowed by IC 36-7-4-1109, a CSE
24 system installed by a project owner must be designed and
25 constructed to:

26 (1) minimize glare on adjacent properties and roadways; and

27 (2) not interfere with vehicular traffic, including air traffic.

28 **Sec. 15.** Except as otherwise allowed by IC 36-7-4-1109, a CSE
29 system installed in a unit must be installed in a manner so as to
30 minimize and mitigate impacts to:

31 (1) television signals;

32 (2) microwave signals;

33 (3) agricultural global positioning systems;

34 (4) military defense radar;

35 (5) radio reception; or

36 (6) weather and doppler radar.

37 **Sec. 16.** (a) Subject to subsection (b), and except as otherwise
38 allowed by IC 36-7-4-1109, a project owner may not install or
39 locate a CSE system in a unit unless the project owner
40 demonstrates to the permit authority that the CSE system will
41 operate in a manner such that the sound attributable to the CSE
42 system will not exceed an hourly average sound level of fifty (50)



1 A-weighted decibels, as modeled at the outer wall of a dwelling
2 located on an adjacent nonparticipating property.

3 (b) The requirement set forth in subsection (a) may be waived
4 with respect to any one (1) CSE system, subject to the written
5 consent of the owner of each adjacent nonparticipating property.

6 Sec. 17. This section applies with respect to a CSE system that
7 is constructed or installed in a unit after June 30, 2022. Except as
8 otherwise allowed by IC 36-7-4-1109, all damages to waterways,
9 drainage ditches, field tiles, or other drainage related
10 infrastructure caused by the construction, installation, or
11 maintenance of a CSE system must be completely repaired by the
12 project owner to near original condition so as to not impede the
13 natural flow of water. All repairs must be completed within a
14 reasonable period of time and:

15 (1) to the satisfaction of the unit; and

16 (2) as stated in an applicable lease or another agreement with
17 the landowner;

18 subject to applicable federal, state, and local drainage laws and
19 regulations.

20 Sec. 18. (a) Subject to subsection (b), and except as otherwise
21 allowed by IC 36-7-4-1109, a project owner may not install or
22 locate a CSE system in a unit unless the project owner submits to
23 the permit authority a decommissioning and site restoration plan,
24 and posts a surety bond, or an equivalent means of security
25 acceptable to the permit authority, including a parent company
26 guarantee or an irrevocable letter of credit, in an amount equal to
27 the estimated cost of decommissioning the CSE system, as
28 calculated by a third party licensed or registered engineer or by
29 another person with suitable experience in the decommissioning of
30 CSE systems, as agreed upon by the project owner and the permit
31 authority. The required bond or other security shall be posted in
32 increments such that the total amount of the bond or security
33 posted is as follows:

34 (1) An amount equal to twenty-five percent (25%) of the total
35 estimated decommissioning costs not later than the start date
36 of the CSE system's full commercial operation.

37 (2) An amount equal to fifty percent (50%) of the total
38 estimated decommissioning costs not later than the fifth
39 anniversary of the start date of the CSE system's full
40 commercial operation.

41 (3) An amount equal to one hundred percent (100%) of the
42 total estimated decommissioning costs not later than the tenth



1 anniversary of the start date of the CSE system's full
 2 commercial operation. For purposes of this subdivision, the
 3 total estimated decommissioning costs shall be reevaluated by
 4 a third party licensed or registered engineer (or by another
 5 person with suitable experience in the decommissioning of
 6 CSE systems, as agreed upon by the project owner and the
 7 permit authority):

8 (A) in connection with the tenth anniversary of the start
 9 date of the CSE system's full commercial operation; and

10 (B) at least once every succeeding five (5) year period after
 11 the tenth anniversary of the start date of the CSE system's
 12 full commercial operation;

13 and the total amount of the bond or security posted under this
 14 subdivision shall be adjusted as necessary after each
 15 reevaluation.

16 (b) For purposes of this section, the estimated cost of
 17 decommissioning a CSE system, as calculated by a licensed or
 18 registered professional engineer (or by another person with
 19 suitable experience in the decommissioning of CSE systems, as
 20 agreed upon by the project owner and the permit authority), shall
 21 be net of any estimated salvage value attributable to the CSE
 22 system at the time of decommissioning, unless the unit and the
 23 project owner agree to include any such value in the estimated cost.

24 (c) A project owner shall provide to the permit authority
 25 written notice of the project owner's intent to decommission a CSE
 26 system not later than sixty (60) days before the discontinuation of
 27 commercial operation by the CSE system. Except as provided in
 28 subsection (e), after the discontinuation of commercial operation
 29 by the CSE system, and as part of the decommissioning process:

30 (1) all structures, foundations, roads, gravel areas, and cables
 31 associated with the project shall be removed to a depth of at
 32 least thirty-six (36) inches below grade; and

33 (2) the ground shall be restored to a condition reasonably
 34 similar to its condition before the start of construction
 35 activities in connection with the CSE system project.

36 (d) Except as provided in subsection (e), if the project owner
 37 fails to remove all CSE system project assets not later than one (1)
 38 year after the proposed date of final decommissioning, as set forth
 39 in the notice to the permit authority under subsection (c), the
 40 permit authority may engage qualified contractors to:

41 (1) enter the project site;

42 (2) remove the CSE system project assets;



1 (3) sell any assets removed; and
 2 (4) remediate the site;
 3 and may initiate proceedings to recover any costs incurred.

4 (e) Project assets may remain in place after decommissioning is
 5 complete if:

- 6 (1) the location and condition of the assets conform with local
 7 regulations at the time of decommissioning; and
 8 (2) the written consent of the landowner is obtained.

9 Sec. 19. (a) If a CSE system installed in a unit does not generate
 10 electricity for eighteen (18) consecutive months:

- 11 (1) the CSE system is considered abandoned as of the date
 12 that is five hundred forty (540) days after the date on which
 13 the CSE system last generated electricity; and
 14 (2) all CSE system project assets shall be removed in
 15 accordance with section 18(c) of this chapter not later than
 16 one (1) year after the date of abandonment specified in
 17 subdivision (1).

18 (b) In the case of abandonment, as described in subsection (a),
 19 if the project owner fails to remove the CSE system project assets
 20 not later than one (1) year after the date of abandonment, as
 21 required by subsection (a)(2), the permit authority may engage
 22 qualified contractors to:

- 23 (1) enter the project site;
 24 (2) remove the CSE system project assets;
 25 (3) sell any assets removed; and
 26 (4) remediate the site;

27 and may initiate proceedings to recover any costs incurred.

28 Sec. 20. (a) As used in this section, "force majeure event"
 29 includes the following:

- 30 (1) Fire, flood, tornado, or other natural disasters or acts of
 31 God.
 32 (2) War, civil strife, a terrorist attack, or other similar acts of
 33 violence.
 34 (3) Other unforeseen events or events over which a project
 35 owner has no control.

36 (b) If a force majeure event results in a CSE system not
 37 generating electricity, the project owner shall:

- 38 (1) as soon as practicable after the occurrence of the force
 39 majeure event, provide notice to the permit authority of the
 40 event and of the resulting cessation of generating operations;
 41 and
 42 (2) demonstrate to the permit authority that the CSE system



- 1 **will be substantially operational and generating electricity not**
2 **later than twelve (12) months after the occurrence of the force**
3 **majeure event.**
- 4 **(c) If the CSE system does not become substantially operational**
5 **and resume generating electricity within the time set forth in**
6 **subsection b(2):**
- 7 **(1) the CSE system is considered abandoned as of the date**
8 **that is three hundred sixty-five (365) days after the date on**
9 **which the CSE system last generated electricity; and**
- 10 **(2) all CSE system project assets shall be removed in**
11 **accordance with section 18(c) of this chapter not later than**
12 **one (1) year after the date of abandonment specified in**
13 **subdivision (1).**
- 14 **(d) In the case of presumed abandonment, as described in**
15 **subsection (c), if the project owner fails to remove the CSE system**
16 **project assets not later than one (1) year after the date of**
17 **abandonment, as required by subsection (c)(2), the permit**
18 **authority may engage qualified contractors to:**
- 19 **(1) enter the project site;**
20 **(2) remove the CSE system project assets;**
21 **(3) sell any assets removed; and**
22 **(4) remediate the site;**
- 23 **and may initiate proceedings to recover any costs incurred.**

