

Indiana Commercial Solar and Wind Energy Ready Community Development Center

Certification Guide

July 1, 2024

Background and Purpose

Established by Indiana Code [4-3-23.1](#) through [Senate Enrolled Act 390 \(2023\)](#) as amended by [House Enrolled Act 1278 \(2024\)](#), the Commercial Solar and Wind Energy Ready Communities Development Center is housed within the Indiana Office of Energy Development (IOED). The Center provides information regarding wind and solar energy development, and administers a certification program for communities to be designated as a Commercial Solar Energy Ready Community, and/or Wind Energy Ready Community.

Community participation in the Energy Ready Community Development Center is completely voluntary, including adoption of any standards and application to become certified.

Additional information about the Center, certification, and application materials, are available online at: <https://www.in.gov/oed/indianas-energy-policy/energy-ready-communities-development-center/>.

How to Apply

Applications are accepted and reviewed year-round, allowing communities time to develop their local standards and to apply when they are ready. Once submitted, the process for review and designation is estimated to take an average of 60 to 90 days depending on the complexity of the local unit standards and if follow up with applicants is needed prior to designation determination.

The application consists of the following information:

- Applicant information
- Local commercial solar and/or wind energy project standards
- Procedural standards for commercial solar and/or wind energy project review and approval
- Affirmation and demonstration of commitment to commercial solar and/or wind energy
- Supporting documentation, including letters of support

Communities can apply for both the Commercial Solar and/or Wind Energy Ready Community designation concurrently, but each requires a separate application package. Application forms are available online at: <https://www.in.gov/oed/indianas-energy-policy/energy-ready-communities-development-center/>.

Applications and supporting documentation must be submitted to EnergyReady@oed.in.gov for consideration.

Certification and Demonstration of Commitment

Certification requires a demonstration of commitment to maintain the standards and procedural framework set forth in the unit's local regulations and/or standards, and to maintain all applicable zoning, land use, and planning regulations. This commitment must be at least 10 years from the project's start date of full commercial operation or the date of IOED's certification, whichever is later. By submitting the application, the unit affirms this commitment.

Once a community has been certified and designated as a Commercial Solar and/or Wind Energy Ready Community, the community will be listed on IOED's webpage. Once a community is certified, it is eligible to receive incentive funds from IOED as authorized by IC 4-3-23.1, should incentive funds be available and have sufficient balance. Incentive funds may be granted for a period of ten years at \$1 per megawatt hour of electricity generated.

If the local standards or any of the information provided in an application change, the unit must notify IOED immediately if the application is in pending status or within 30 days if the unit has been approved and certified.

IOED will work with certified communities to establish a review schedule of the local unit's standards and procedures to occur at least once a year. However, IOED reserves the right to review the unit's standards at its discretion after certification to ensure continued compliance with the certification requirements.

Certification may be revoked, require re-certification, discontinue incentive grants, and/or require repayment of any funds received from IOED if it is determined that the unit has failed to continue to meet the requirements for certification.

Eligibility and Applicant Information

In accordance with [IC 8-1-41-6](#) and [IC 8-1-42-8](#), communities eligible for designation as a Commercial Solar and/or Wind Energy Community include county and municipal units of government.

To ensure the applicant has the appropriate approval and/or authority on behalf of the unit, the application must identify the governing body and its members that hold the authority and provide oversight of the unit's local standards. It is incumbent upon the applicant to ensure they have the appropriate unit approval.

Two points of contact shall be provided on the application should there be any questions or follow-up necessary who can act on behalf of the unit.

The signatory on the application must be the decision-making authority or its designee for the unit or governing body.

Types of Standards

In accordance with IC 4-3-23.1, there are three primary methods for units to adopt and implement standards for commercial solar and/or wind energy projects:

- **Regulations.** Standards that have been adopted and enacted through regulations at the unit level include but are not limited to zoning, planning, or ordinances.
- **Contract.** Standards that have been outlined through a legally binding contract between the unit and the project owner, which are generally specific to a project.
- **Economic Development Agreement.** Standards that have been outlined through a legally binding economic development agreement between the unit and the project owner, which are generally specific to a project.

Local commercial solar and/or wind energy project standards that are adopted through a regulatory framework generally encompass the entirety of the unit's jurisdiction and procedures. That is, applications for certifications that use regulation-based standards would cover the unit's regulatory framework and could include multiple solar and/or wind energy projects within the unit.

Standards that are incorporated through a contract or an economic development agreement between the unit and the project owner are legally-binding and generally applicable to a single project. That is, applications for certification that use these contractual-based standards would be reviewed at a project level.

Regardless of the type of standard used, the unit must submit a copy of the regulation, contract, or agreement as a part of the application.

Voluntary Default Standards for Solar and Wind

Certification standards for a Commercial Solar Energy Ready Community are set forth by IC 4-3-23.1-13 and certification standards for a Wind Energy Ready Community are set forth by IC 4-3-23.1-14. Both require local standards that are not more restrictive, directly or indirectly, than the default standards under IC 8-1-42 and IC 8-1-41, respectively. Refer to Appendix A and B for the complete list of default standards.

Units that use these voluntary default standards in whole with identical language only need to provide a copy of the standards to demonstrate fulfillment of this requirement.

Units that use standards that are similar but not identical to the default standards need to provide the text of the local standard(s) and provide a justification that demonstrates the local standard is not materially different, does not affect project viability, and is not more restrictive than the default standard. At least one letter of support from a relevant entity is required to demonstrate that the local standards fulfill these requirements. A relevant entity is typically a local government representative or body, or an energy-based group, such as an electric utility or a project developer.

Units that use any additional standard that is not listed nor contemplated under the default standards need to provide the text of the local standard(s) and provide a justification that demonstrates how the local standard is consistent with industry and/or other regulatory standards and does not affect project viability. References and/or citations to industry and regulatory standards should be provided, as applicable. A letter of support from a relevant entity is encouraged to demonstrate that the local standards fulfill these requirements. A relevant entity is typically a local government representative or body, or an energy-based group, such as an electric utility or a project developer.

Process Standards

Certification to be designated as a Commercial Solar and/or Wind Energy Ready Community also requires the unit to have the following process-based standards. The unit's application must provide a description and details on how these are considered and fulfilled. Recommendations on how to demonstrate fulfillment of these requirements are also included below.

1. Provides a clear a transparent process for project owners to identify potential project sites. This must include:
 - a) the unit's development process and procedures for potential projects including where to find the information online,
 - b) how and where the unit provides an easily accessible map of potential development locations within the unit, and
 - c) contact information for relevant unit officials or staff who can be reached for additional assistance.

Example response that shows the type of information an applicant may use, adapt, and expand upon:

The County's development processes and procedures are made available for all interested parties online at: (insert website). This website also includes a map of where projects may be sited within the County.

Any questions or additional assistance can be directed to (insert relevant contact information of who can be reached in the unit). This contact information is also available on the website provided above.

2. Does not unreasonably eliminate portions of the unit for projects. This must include:
 - a) a written description, and
 - b) a map of the unit's jurisdiction that denotes areas allowed for development, and if applicable, areas that are not allowed.
 - c) a justification for areas that are not allowed for solar and/or wind development.

Example response that shows the type of information that an applicant may use, adapt, and expand upon:

ABC County has jurisdiction over X acres/square miles, which does not include the municipalities of X, Y, and Z located within the county. Of the land area under the county's purview, 80% can be developed for commercial solar/wind energy development. Of the 20% of areas not allowed for solar/wind development, 15% is for residential and 5% is for commercial purposes. See attached map(s) that indicates the County's jurisdiction, along with areas that allow and do not allow for solar/wind development.

3. Provides for a fair review and approval process for projects, including final approval that cannot be revoked. This should include, as applicable:
 - a) the unit's public review process including applicable local codes or standards that govern the public review process,
 - b) a documented public review of each commercial solar development project(s) under consideration,
 - c) the appeals process for members of the unit, and
 - d) clear language that demonstrates commitment to the project(s), including commitments to financial incentives, permits, and other applicable project commitments.

Example response that shows the type of information an applicant may use, adapt, and expand upon:

General process:

The public process for ABC County is defined by local code (provide citation and link), consistent with applicable Indiana law. The public appeals process is defined by local code (provide citation and link).

Proposed commercial solar/wind energy development projects are submitted, reviewed, and approved by (list all relevant departments, commissions, boards, etc within the unit). Projects are first submitted to (insert relevant unit body), which begins the local review process, which takes typically X days. Proposed development projects are made available to the public for review and input through multiple methods, including a public notice in newspaper(s), an electronic docket system located at: (insert website), the local jurisdiction's publicly available website, and in-person (and/or virtual) meetings that provide a public comment period. Written comments for public feedback can be submitted by (description). Final approval is granted by the (insert relevant body) during X public meeting with a vote. This process is described online at: (provide website links).

The county demonstrates commitment to the project during the review and implementation process by maintaining open lines of communication with the project developer(s) and members of the public. Commitment is also demonstrated by enacting these standards and associated project(s) into the local (regulation, contract, agreement).

Process for standards submitted for certification:

In the drafting and development of these commercial solar/wind energy standards submitted with this application, ABC County provided three (3) public meetings that included discussion among County staff and officials along with public comment opportunities. The agenda, minutes, and related materials of these meetings are located

online at: (provide website) and are also attached to this application. The recorded meeting is available online at: (provide website).

Important discussion points and areas of concern were identified through the meetings and public feedback. These points were considered into the final standards by (describe how relevant points were addressed). The use of potential incentive funds was discussed and agreed to be used in a specific manner for the benefit of the residents and businesses of the County, as further described in response 4 below.

These standards were further developed through a constructive dialogue with potential energy developers and utilities. Letters of support from these entities are provided with this application.

4. Includes a specific plan for using any funds from an incentive granted by IOED for economic development purposes within or near the project(s) footprint, or otherwise benefit residents and businesses within or near the project(s) footprint. This must be provided as a written description in the application, and if applicable, a formal plan should be provided as supporting documentation.

Example response that shows the type of information an applicant may use, adapt, and expand upon:

ABC County commits to using potential funding received from the incentive for economic development purposes and for the benefit of residents and businesses within the footprint of the project(s). ABC County considers the area within and near the project footprint to be (insert description) and is denoted on Map X provided. The County will use these funds to accomplish several projects, including: (EXAMPLES: main street revitalization, creation of a public park, etc.). Should there be remaining funds, they will be used to improve the energy efficiency of the ABC County courthouse. More information can be found in the full plan attached to this application. The County's Economic Development board helped to develop this plan and the plan was developed with robust stakeholder engagement and participation.

Contact Information

For any questions or technical assistance, reach out to OED by email at EnergyReady@oed.in.gov.

Appendix A.

Default Standards for Commercial Solar Energy Systems

IC 8-1-42

IC 8-1-42**Chapter 42. Default Standards for Commercial Solar Energy Systems**

8-1-42-1	Applicability; "solar energy ready community"
8-1-42-2	"Commercial solar energy system"
8-1-42-3	"Commercial solar regulation"
8-1-42-4	"Dwelling"
8-1-42-5	"Nonparticipating property"
8-1-42-6	"Permit authority"
8-1-42-7	"Project owner"
8-1-42-8	"Unit"
8-1-42-9	Permit authority responsible for enforcing compliance with standards; authority to adopt less restrictive standards or to waive or make less restrictive existing standards; unit's planning and zoning powers not affected
8-1-42-10	Setback requirements; highways, collector roads, and local roads; nonparticipating properties; landscape buffer; height restriction; waiver of setback and buffer requirements with consent of nonparticipating property owner
8-1-42-11	Ground cover; vegetation plan
8-1-42-12	Fencing
8-1-42-13	Underground cables; aboveground infrastructure; depth of buried cables; cables and lines outside of project site
8-1-42-14	Glare minimization; adjacent properties and roadways; vehicular traffic
8-1-42-15	Signal interference
8-1-42-16	Sound level limitations; waiver of requirement with consent of owners of adjacent nonparticipating properties
8-1-42-17	Damage to drainage infrastructure; repair; installation of new infrastructure
8-1-42-18	Decommissioning and site restoration plan; posting of surety bond or equivalent security; required posting increments; adjustment of bond or security after periodic reevaluation of decommissioning costs; costs to be net of estimated salvage value; project owner's notice of intent to decommission CSE system; ground restoration; project owner's failure to remove project assets; assets allowed to remain in place with landowner's consent
8-1-42-19	CSE system's failure to generate electricity; presumed abandonment; required removal of project assets; project owner's failure to remove assets; removal of assets by permit authority; recovery of costs
8-1-42-20	"Force majeure event"; cessation of electricity generation; project owner's notice to permit authority; failure to resume operations; presumed abandonment; project owner's failure to remove assets; removal of assets by permit authority; recovery of costs

IC 8-1-42-1 Applicability; "solar energy ready community"

Sec. 1. (a) Except as provided in subsections (b) and (c), and subject to IC 36-7-4-1109 and section 9 of this chapter, the standards set forth in sections 10 through 20 of this chapter, or standards less restrictive than the standards set forth in sections 10 through 20 of this chapter, apply to a project owner that, after June 30, 2022, files an initial application for a project to install or locate one (1) or more CSE systems in a unit that qualifies as a solar energy ready community under subsection (d).

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

(c) Unless a standard set forth in sections 10 through 20 of this chapter is already agreed to before July 1, 2022, by the parties involved, the standard does not:

(1) apply to any proposal, request, or application that:

(A) concerns the permitting, construction, installation, siting, modification,

operation, or decommissioning of one (1) or more CSE systems in a unit;
(B) is submitted by a project owner to a unit before July 1, 2022; and
(C) is pending approval or has been approved as of July 1, 2022;
as set forth in IC 36-7-4-1109;

(2) affect the:

- (A) permitting;
- (B) construction;
- (C) installation;
- (D) siting;
- (E) modification;
- (F) operation; or
- (G) decommissioning;

of one (1) or more CSE systems in a unit that before July 1, 2022, has approved such permitting, construction, installation, siting, modification, operation, or decommissioning; or

(3) affect any:

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

entered into before July 1, 2022, with respect to the permitting, construction, installation, siting, modification, operation, or decommissioning of one (1) or more CSE systems in one (1) or more units.

(d) As used in this section, "solar energy ready community" means a unit that has voluntarily adopted:

- (1) the standards set forth in sections 10 through 20 of this chapter; or
- (2) standards less restrictive than the standards set forth in sections 10 through 20 of this chapter.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-2 "Commercial solar energy system"

Sec. 2. (a) As used in this chapter, "commercial solar energy system", or "CSE system", means a system that:

- (1) has a nameplate capacity of at least ten (10) megawatts; and
- (2) captures and converts solar energy into electricity:
 - (A) for the purpose of selling the electricity at wholesale; and
 - (B) for use in locations other than where it is generated.

(b) The term includes solar panels, collection and feeder lines, generation tie lines, substations, ancillary buildings, solar monitoring stations, and accessory equipment or structures.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-3 "Commercial solar regulation"

Sec. 3. As used in this chapter, "commercial solar regulation" refers to any ordinance or regulation, including any:

- (1) zoning or land use ordinance or regulation; or
- (2) general or specific planning ordinance or regulation;

that is adopted by a unit and that concerns the permitting, construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-4 "Dwelling"

Sec. 4. As used in this chapter, "dwelling" means any building, structure, or part of a building or structure that is occupied as, or is designed or intended for occupancy as, a residence by one (1) or more families or individuals.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-5 "Nonparticipating property"

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

- (1) that is not owned by a project owner; and
- (2) with respect to which:
 - (A) the project owner does not seek:
 - (i) to install or locate one (1) or more CSE systems or other facilities related to a CSE system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or
 - (ii) to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a CSE system project; or
 - (B) the owner of the property does not consent:
 - (i) to having one (1) or more CSE systems or other facilities related to a CSE system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or
 - (ii) to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a CSE system project.

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-6 "Permit authority"

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

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

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

(b) The term does not include:

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-7 "Project owner"

Sec. 7. (a) As used in this chapter, "project owner" means a person that:

- (1) will own one (1) or more CSE systems proposed to be located in a unit; or
- (2) owns one (1) or more CSE systems located in a unit.

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

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-8 "Unit"

Sec. 8. (a) As used in this chapter, "unit" refers to:

- (1) a county, if a project owner, as part of a single CSE system project or development, seeks to locate one (1) or more CSE systems:
 - (A) entirely within unincorporated areas of the county;
 - (B) within both unincorporated areas of the county and one (1) or more

- municipalities within the county; or
- (C) entirely within two (2) or more municipalities within the county; or
- (2) a municipality, if:
 - (A) a project owner, as part of a single CSE system project or development, seeks to locate one (1) or more CSE systems entirely within the boundaries of the municipality; and
 - (B) subdivision (1)(B) or (1)(C) does not apply.
- (b) The term refers to:
 - (1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in more than one (1) county as part of a single CSE system project or development; and
 - (2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more CSE systems, if the project owner seeks to locate CSE systems in two (2) or more municipalities, each of which is located in a different county.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-9 Permit authority responsible for enforcing compliance with standards; authority to adopt less restrictive standards or to waive or make less restrictive existing standards; unit's planning and zoning powers not affected

Sec. 9. (a) A permit authority for a unit described in section 1(a) of this chapter is responsible for enforcing compliance with any standards set forth in sections 10 through 20 of this chapter that apply in the unit under section 1(a) of this chapter.

- (b) A unit may:
 - (1) adopt and enforce a commercial solar regulation that includes standards that:
 - (A) concern the permitting, construction, installation, siting, modification, operation, or decommissioning of CSE systems in the unit; and
 - (B) are less restrictive than the standards set forth in this chapter;
 - (2) waive or make less restrictive any standard set forth in this chapter with respect to any particular:
 - (A) CSE system; or
 - (B) project to install one (1) or more CSE systems in the unit; or
 - (3) waive or make less restrictive any standard that is not set forth in this chapter but that is included in a commercial solar regulation adopted by the unit with respect to any particular:
 - (A) CSE system; or
 - (B) project to install one (1) or more CSE systems in the unit.

(c) This chapter does not affect a unit's planning and zoning powers under IC 36-7 with respect to the permitting, construction, installation, or siting of one (1) or more CSE systems in the unit.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-10 Setback requirements; highways, collector roads, and local roads; nonparticipating properties; landscape buffer; height restriction; waiver of setback and buffer requirements with consent of nonparticipating property owner

Sec. 10. (a) Subject to subsection (e), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system on property in a unit unless the distance, measured as a straight line, from the nearest outer edge of the CSE system's solar panels to:

- (1) the nearest edge of the right-of-way for any:
 - (A) federal interstate highway, federal highway, state highway, or county highway is at least forty (40) feet;

(B) collector road is at least thirty (30) feet; or

(C) local road is at least ten (10) feet; or

(2) the property line of any nonparticipating property is at least fifty (50) feet.

(b) Subject to subsection (e), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system on property in a unit unless the distance, measured as a straight line, from the nearest outer edge of the CSE system's solar panels to the nearest point on the outer wall of a dwelling located on a nonparticipating property is at least two hundred fifty (250) feet.

(c) Subject to subsection (e), and except as otherwise allowed by IC 36-7-4-1109, if a project owner installs a CSE system within a distance of two hundred fifty (250) feet, measured as a straight line, from the nearest outer edge of the CSE system's solar panels to the nearest point on the outer wall of a dwelling located on a nonparticipating property, the project owner shall install a landscape buffer in the area between the nearest outer edge of the CSE system's solar panels and the nonparticipating property owner's property line that faces the CSE system's solar panels. The landscape buffer must be:

(1) in a location that is not on the property of the nonparticipating property owner; and

(2) constructed from such materials;

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

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

(e) The:

(1) distance requirements set forth in subsection (a)(2) and subsection (b); and

(2) requirement for the installation of a landscape buffer set forth in subsection (c);

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-11 Ground cover; vegetation plan

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

(1) is compatible with each CSE system on the project site;

(2) provides for the planting of noninvasive species and the use of native or naturalized species if the planting and use of noninvasive and native or naturalized species are:

(A) appropriate to the region;

(B) economically feasible; and

(C) agreed to by the landowner;

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

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-12 Fencing

Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, if a project owner installs a CSE system in a unit, the project owner shall completely enclose the CSE system with fencing that

is at least six (6) feet high.
As added by P.L.90-2022, SEC.2.

IC 8-1-42-13 Underground cables; aboveground infrastructure; depth of buried cables; cables and lines outside of project site

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

- (1) be located above ground; or
- (2) in the case of cables or lines of up to thirty-four and one-half (34.5) kilovolts, be buried underground at:
 - (A) a depth of at least forty-eight (48) inches below grade, so as to not interfere with drainage tile or ditch repairs; or
 - (B) another depth, as necessitated by conditions;as determined in consultation with the landowner.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-14 Glare minimization; adjacent properties and roadways; vehicular traffic

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

- (1) minimize glare on adjacent properties and roadways; and
- (2) not interfere with vehicular traffic, including air traffic.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-15 Signal interference

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

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-16 Sound level limitations; waiver of requirement with consent of owners of adjacent nonparticipating properties

Sec. 16. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a CSE system in a unit unless the project owner demonstrates to the permit authority that the CSE system will operate in a manner such that the sound attributable to the CSE system will not exceed an hourly average sound level of fifty (50) A-weighted decibels, as modeled at the outer wall of a dwelling located on an adjacent nonparticipating property.

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-17 Damage to drainage infrastructure; repair; installation of new infrastructure

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

- (1) to the satisfaction of the unit; and
 - (2) as stated in an applicable lease or another agreement with the landowner;
- subject to applicable federal, state, and local drainage laws and regulations.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-18 Decommissioning and site restoration plan; posting of surety bond or equivalent security; required posting increments; adjustment of bond or security after periodic reevaluation of decommissioning costs; costs to be net of estimated salvage value; project owner's notice of intent to decommission CSE system; ground restoration; project owner's failure to remove project assets; assets allowed to remain in place with landowner's consent

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

- (1) An amount equal to twenty-five percent (25%) of the total estimated decommissioning costs not later than the start date of the CSE system's full commercial operation.
- (2) An amount equal to fifty percent (50%) of the total estimated decommissioning costs not later than the fifth anniversary of the start date of the CSE system's full commercial operation.
- (3) An amount equal to one hundred percent (100%) of the total estimated decommissioning costs not later than the tenth anniversary of the start date of the CSE system'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 CSE systems, as agreed upon by the project owner and the permit authority):
 - (A) in connection with the tenth anniversary of the start date of the CSE system's full commercial operation; and
 - (B) at least once every succeeding five (5) year period after the tenth anniversary of the start date of the CSE system'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 decommissioning a CSE system, as calculated by a licensed or registered professional engineer (or by another person with suitable experience in the decommissioning of CSE systems, as agreed upon by the project

owner and the permit authority), shall be net of any estimated salvage value attributable to the CSE system at the time of decommissioning, unless the unit and the project owner agree to include any such value in the estimated cost.

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

- (1) all structures, foundations, roads, gravel areas, and cables associated with the project shall be removed to a depth of at least thirty-six (36) inches below grade; and
- (2) the ground shall be restored to a condition reasonably similar to its condition before the start of construction activities in connection with the CSE system project.

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

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

and may initiate proceedings to recover any costs incurred.

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

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

As added by P.L.90-2022, SEC.2.

IC 8-1-42-19 CSE system's failure to generate electricity; presumed abandonment; required removal of project assets; project owner's failure to remove assets; removal of assets by permit authority; recovery of costs

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

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

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

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

and may initiate proceedings to recover any costs incurred.

As added by P.L.90-2022, SEC.2.

IC 8-1-42-20 "Force majeure event"; cessation of electricity generation; project owner's notice to permit authority; failure to resume operations; presumed abandonment; project owner's failure to remove assets; removal of assets by permit authority; recovery

of costs

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

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

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

- (1) as soon as practicable after the occurrence of the force majeure event, provide notice to the permit authority of the event and of the resulting cessation of generating operations; and
- (2) demonstrate to the permit authority that the CSE system will be substantially operational and generating electricity not later than twelve (12) months after the occurrence of the force majeure event.

(c) If the CSE system does not become substantially operational and resume generating electricity within the time set forth in subsection (b)(2):

- (1) the CSE system is considered abandoned as of the date that is three hundred sixty-five (365) days after the date on which the CSE system last generated electricity, unless the project owner demonstrates to the permit authority that the project owner is using all commercially reasonable efforts to resume generation; and
- (2) all CSE system project assets shall be removed in accordance with section 18(c) of this chapter not later than one (1) year after the date of abandonment specified in subdivision (1).

(d) In the case of presumed abandonment, as described in subsection (c), if the project owner fails to remove the CSE system project assets not later than one (1) year after the date of abandonment, as required by subsection (c)(2), the permit authority may engage qualified contractors to:

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

and may initiate proceedings to recover any costs incurred.

As added by P.L.90-2022, SEC.2.

Appendix B.

Default Standards for Wind Power Devices

IC 8-1-41

IC 8-1-41**Chapter 41. Default Standards for Wind Power Devices**

8-1-41-1	Applicability; "wind energy ready community"
8-1-41-2	"Dwelling"
8-1-41-3	"Nonparticipating property"
8-1-41-4	"Permit authority"
8-1-41-5	"Project owner"
8-1-41-6	"Unit"
8-1-41-7	"Wind power device"
8-1-41-8	"Wind power regulation"
8-1-41-9	Permit authority responsible for enforcing compliance with standards; authority to adopt less restrictive standards or to waive or make less restrictive existing standards; unit's planning and zoning powers not affected
8-1-41-10	Setback requirements; airport; public use highway, street, or road; nonparticipating property; utility transmission or distribution line; undeveloped residential land; state park; corporate boundaries of municipality; blade tip height limitations; waiver of restrictions by nonparticipating party
8-1-41-11	Shadow flicker; limits with respect to nonparticipating property; mitigation efforts; waiver of requirement with consent of nonparticipating property owners
8-1-41-12	Signal interference
8-1-41-13	Sound level limitations; waiver of requirement with consent of affected property owners
8-1-41-14	"Wind turbine light mitigation technology"; required after January 1, 2023; exceptions
8-1-41-15	Damage to drainage infrastructure; repair; installation of new infrastructure
8-1-41-16	Decommissioning and site restoration plan; posting of surety bond or equivalent security; required posting increments; adjustment of bond or security after periodic reevaluation of decommissioning costs; costs to be net of estimated salvage value

IC 8-1-41-1 Applicability; "wind energy ready community"

Sec. 1. (a) Except as provided in subsections (b) and (c), and subject to IC 36-7-4-1109 and section 9 of this chapter, the standards set forth in sections 10 through 16 of this chapter, or standards less restrictive than the standards set forth in sections 10 through 16 of this chapter, apply to a project owner that, after June 30, 2022, files an initial application for a project to install or locate one (1) or more wind power devices in a unit that qualifies as a wind energy ready community under subsection (d).

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

(c) Unless a standard set forth in sections 10 through 16 of this chapter is already agreed to before July 1, 2022, by the parties involved, the standard does not:

(1) apply to any proposal, request, or application that:

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

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

(C) is pending approval or has been approved as of July 1, 2022;

as set forth in IC 36-7-4-1109;

(2) affect the:

(A) permitting;

(B) construction;

(C) installation;

(D) siting;

(E) modification;

- (F) operation; or
 - (G) decommissioning;
- of one (1) or more wind power devices in a unit that before July 1, 2022, has approved such permitting, construction, installation, siting, modification, operation, or decommissioning; or
- (3) affect any:
- (A) economic development agreement; or
 - (B) other agreement;
- entered into before July 1, 2022, with respect to the permitting, construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices in one (1) or more units.
- (d) As used in this section, "wind energy ready community" means a unit that has voluntarily adopted:
- (1) the standards set forth in sections 10 through 16 of this chapter; or
 - (2) standards less restrictive than the standards set forth in sections 10 through 16 of this chapter.

As added by P.L.90-2022, SEC.1.

IC 8-1-41-2 "Dwelling"

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-3 "Nonparticipating property"

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

- (1) that is not owned by a project owner; and
- (2) with respect to which:
 - (A) the project owner does not seek:
 - (i) to install or locate one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or
 - (ii) to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a wind power project; or
 - (B) the owner of the property does not consent:
 - (i) to having one (1) or more wind power devices or other facilities related to a wind power project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located; or
 - (ii) to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a wind power project.

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-4 "Permit authority"

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

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

that makes legislative or administrative decisions concerning the permitting, construction,

installation, siting, modification, operation, or decommissioning of wind power devices in the unit.

(b) The term does not include:

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-5 "Project owner"

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

- (1) will own one (1) or more wind power devices proposed to be located in a unit; or
- (2) owns one (1) or more wind power devices located in a unit.

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-6 "Unit"

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

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

- (A) entirely within unincorporated areas of the county;
- (B) within both unincorporated areas of the county and one (1) or more municipalities within the county; or
- (C) entirely within two (2) or more municipalities within the county; or

(2) a municipality, if:

- (A) a project owner, as part of a single wind power project or development, seeks to locate one (1) or more wind power devices entirely within the boundaries of the municipality; and
- (B) subdivision (1)(B) or (1)(C) does not apply.

(b) The term refers to:

- (1) each county described in subsection (a)(1) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in more than one (1) county as part of a single wind power project or development; and
- (2) each municipality described in subsection (a)(2) in which a project owner seeks to locate one (1) or more wind power devices, if the project owner seeks to locate wind power devices in two (2) or more municipalities, each of which is located in a different county.

As added by P.L.90-2022, SEC.1.

IC 8-1-41-7 "Wind power device"

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-8 "Wind power regulation"

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

- (1) zoning or land use ordinance or regulation; or
- (2) general or specific planning ordinance or regulation;

that is adopted by a unit and that concerns the permitting, construction, installation, siting,

modification, operation, or decommissioning of wind power devices in the unit.
As added by P.L.90-2022, SEC.1.

IC 8-1-41-9 Permit authority responsible for enforcing compliance with standards; authority to adopt less restrictive standards or to waive or make less restrictive existing standards; unit's planning and zoning powers not affected

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

(b) A unit may:

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

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

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

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

(A) wind power device; or

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

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

(A) wind power device; or

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-10 Setback requirements; airport; public use highway, street, or road; nonparticipating property; utility transmission or distribution line; undeveloped residential land; state park; corporate boundaries of municipality; blade tip height limitations; waiver of restrictions by nonparticipating party

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

(1) the centerline of any:

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

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

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

(2) the property line of any nonparticipating property;

is equal to a distance that is at least one and one-tenth (1.1) times the wind power device's blade tip height, as measured from the ground to the tip of the blade.

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

(c) Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device on property in a unit unless the distance, measured as a straight

line, from the vertical centerline of the base of the wind power device to the nearest edge of the right-of-way for any utility transmission or distribution line is equal to a distance that is at least one and two-tenths (1.2) times the wind power device's blade tip height, as measured from the ground to the tip of the blade.

(d) Except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device on property in a unit unless the distance, measured as a straight line, from the vertical centerline of the base of the wind power device to the property line of any undeveloped land within the unit that is zoned or platted for residential use is equal to a distance that is at least two (2) times the wind power device's blade tip height, as measured from the ground to the tip of the blade.

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

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

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-11 Shadow flicker; limits with respect to nonparticipating property; mitigation efforts; waiver of requirement with consent of nonparticipating property owners

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

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

(2) the wind power device has been designed such that industry standard computer modeling indicates that any dwelling on a nonparticipating property within the unit will not experience more than thirty (30) hours per year of shadow flicker under planned operating conditions for the wind power device.

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-12 Signal interference

Sec. 12. Except as otherwise allowed by IC 36-7-4-1109, a wind power device installed

in a unit must be installed in a manner so as to minimize and mitigate impacts to:

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-13 Sound level limitations; waiver of requirement with consent of affected property owners

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-14 "Wind turbine light mitigation technology"; required after January 1, 2023; exceptions

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

(b) Except as otherwise allowed by IC 36-7-4-1109, after January 1, 2023, and to the extent permissible under federal law or regulations, a wind power device on property in a unit must be equipped with a wind turbine light mitigation technology, unless:

- (1) the Federal Aviation Administration denies the project owner's application to use a wind turbine light mitigation technology;
- (2) the wind turbine light mitigation technology application is pending review by the appropriate federal agencies; or
- (3) the project owner determines that the use of a wind turbine light mitigation technology is not economically feasible.

As added by P.L.90-2022, SEC.1.

IC 8-1-41-15 Damage to drainage infrastructure; repair; installation of new infrastructure

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

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

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

As added by P.L.90-2022, SEC.1.

IC 8-1-41-16 Decommissioning and site restoration plan; posting of surety

**bond or equivalent security; required posting increments;
adjustment of bond or security after periodic reevaluation of
decommissioning costs; costs to be net of estimated salvage
value**

Sec. 16. (a) Subject to subsection (b), and except as otherwise allowed by IC 36-7-4-1109, a project owner may not install or locate a wind power device in a unit unless the project owner submits to the permit authority a decommissioning and site restoration plan, and posts a surety bond, or an equivalent means of security acceptable to the permit authority, including a parent company guarantee or an irrevocable letter of credit, but excluding cash, in an amount equal to the estimated cost of decommissioning the wind power device, as calculated 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. The required bond or other security shall be posted in increments such that the total amount of the bond or security posted is as follows:

(1) An amount equal to twenty-five percent (25%) of the total estimated decommissioning costs not later than 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:

- (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 decommissioning a wind power device, as calculated by a licensed or registered professional 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), shall be net of any estimated salvage value

attributable to the wind power device at the time of decommissioning, unless the unit and the project owner agree to include any such value in the estimated cost.
As added by P.L.90-2022, SEC.1.

Appendix C.

Commercial Solar and Wind Energy Ready Communities

IC 4-3-23.1

IC 4-3-23.1 Chapter 23.1. Commercial Solar and Wind Energy Ready Communities

4-3-23.1-1	"Center"
4-3-23.1-2	"Commercial solar project"
4-3-23.1-3	"Commercial solar regulation"
4-3-23.1-4	"Fund"
4-3-23.1-5	"Office"
4-3-23.1-6	"Permit"
4-3-23.1-6.5	"Permit authority"
4-3-23.1-7	"Project"
4-3-23.1-8	"Project owner"
4-3-23.1-9	"Unit"
4-3-23.1-10	"Wind power project"
4-3-23.1-11	"Wind power regulation"
4-3-23.1-12	Commercial solar and wind energy ready communities development center; authorization for establishment; duties if established; program to certify units as commercial solar energy ready or wind energy ready communities
4-3-23.1-13	Certification as commercial solar energy ready community; application to office; determinations for certification; financial incentive for certified unit; annual reporting of energy generated
4-3-23.1-14	Certification as wind energy ready community; application to office; determinations for certification; financial incentive for certified unit; annual reporting of energy generated
4-3-23.1-15	Certification as both a commercial solar energy ready community and a wind energy ready community
4-3-23.1-16	Commercial solar and wind energy ready communities incentive fund; authorization to establish; purpose; administration by office; source of funds

IC 4-3-23.1-1 "Center"

Sec. 1. As used in this chapter, "center" refers to the commercial solar and wind energy ready communities development center that may be established under section 12 of this chapter.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-2 "Commercial solar project"

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-3 "Commercial solar regulation"

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-4 "Fund"

Sec. 4. As used in this chapter, "fund" refers to the commercial solar and wind energy ready communities incentive fund described in section 16 of this chapter.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-5 "Office"

Sec. 5. As used in this chapter, "office" refers to the Indiana office of energy development established by IC 4-3-23-3.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-6 "Permit"

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-6.5 "Permit authority"

Sec. 6.5. As used in this chapter, "permit authority" has the meaning set forth in:

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-7 "Project"

Sec. 7. As used in this chapter, "project" refers to:

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-8 "Project owner"

Sec. 8. As used in this chapter, "project owner" has the meaning set forth in:

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-9 "Unit"

Sec. 9. As used in this chapter, "unit" means a county or a municipality, as specified in:

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

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-10 "Wind power project"

Sec. 10. As used in this chapter, "wind power project" means a project involving the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices (as defined in IC 8-1-41-7) in a unit.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-11 "Wind power regulation"

Sec. 11. As used in this chapter, "wind power regulation" has the meaning set forth in IC 8-1-41-8.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-12 Commercial solar and wind energy ready communities development center; authorization for establishment; duties if established; program to certify units as commercial solar energy ready or wind energy ready communities

Sec. 12. (a) The commercial solar and wind energy ready communities development center may be established within the office. If established, the center has the following duties:

- (1) Providing comprehensive information concerning permits required for projects and related business activities in Indiana, and making the information available and easily accessible to:
 - (A) project owners;
 - (B) state and local government offices, departments, and administrative entities; and

(C) the public.

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

(b) The center, if established, may create and administer:

(1) a program for the certification of units as commercial solar energy ready communities under section 13 of this chapter; and

(2) a program for the certification of units as wind energy ready communities under section 14 of this chapter.

(c) Notwithstanding:

(1) section 13(a) or 13(b) of this chapter, the center, if established, may make a reasonable determination to certify a unit as a commercial solar energy ready community if the unit's commercial solar regulation under section 13(a) of this chapter or clear standards under section 13(b) of this chapter, as applicable, differ in one (1) or more respects from the standards set forth in section 13(a) or 13(b) of this chapter, as applicable; or

(2) section 14(a) or 14(b) of this chapter, the center, if established, may make a reasonable determination to certify a unit as a wind energy ready community if the unit's wind power regulation under section 14(a) of this chapter or clear standards under section 14(b) of this chapter, as applicable, differ in one (1) or more respects from the standards set forth in section 14(a) or 14(b) of this chapter, as applicable;

if the unit's commercial solar regulation, wind power regulation, or clear standards, as applicable, do not materially differ from applicable industry or regulatory standards, or otherwise materially affect the ability of a project owner to develop a project in the unit.

As added by P.L.50-2023, SEC.1. Amended by P.L.87-2024, SEC.3.

IC 4-3-23.1-13 Certification as commercial solar energy ready community; application to office; determinations for certification; financial incentive for certified unit; annual reporting of energy generated

Sec. 13. (a) A unit may apply to the office for certification as a commercial solar energy ready community. The application must be in a form and manner prescribed by the office. Subject to section 12(c) of this chapter, the office may approve an application and certify a unit as a commercial solar energy ready community if the office determines the following:

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

(2) That the unit's commercial solar regulation:

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

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

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

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

(E) includes a specific plan for using any funds from an incentive granted by the office under subsection (d):

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

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

(3) That the unit has demonstrated a commitment to maintain:

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

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

with respect to any particular commercial solar project that is approved under the unit's commercial solar regulation, for a period of at least ten (10) years, beginning with the start date of the commercial solar project's full commercial operation or the date of the office's certification of the unit under this section, whichever is later.

(b) If a unit has not adopted a commercial solar regulation, the unit may apply to the office for certification as a commercial solar energy ready community. The application must be in a form and manner prescribed by the office. Subject to section 12(c) of this chapter, the office may approve an application and certify a unit as a commercial solar energy ready community if the office determines the following:

(1) That the unit has clear standards for the construction, installation, siting, modification, operation, or decommissioning of one (1) or more commercial solar energy systems (as defined in IC 8-1-42-2) in the unit.

(2) That the unit's clear standards:

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

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

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

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

(E) include a specific plan for using any funds from an incentive granted by the office under subsection (d):

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

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

(3) That the unit has demonstrated a commitment to maintain its clear standards for a period of at least ten (10) years, beginning with the start date of the commercial solar project's full commercial operation or the office's certification of the unit under this section, whichever is later.

(c) For purposes of subsection (b), the office may consider one (1) or more of the following as evidence of a unit's clear standards with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more commercial solar energy systems (as defined in IC 8-1-42-2) in the unit:

(1) A contract or an otherwise binding agreement between the unit and a project owner.

(2) An economic development agreement.

(3) Any other documentation that the office determines provides sufficient evidence of the unit's clear standards.

(d) If:

(1) a unit receives certification as a commercial solar energy ready community by the office under this section;

(2) after the unit's certification, a commercial solar project is constructed or has been constructed in the unit; and

(3) the fund is established and there is a sufficient balance in the fund;

the office may authorize the unit to receive from the fund, for a period of ten (10) years beginning with the start date of the commercial solar project's full commercial operation or the date of the office's certification of the unit under this section, whichever is later, one dollar (\$1) per megawatt hour of electricity generated by the commercial solar project, if the office determines that the procedures and standards set forth in the unit's commercial solar

regulation under subsection (a) or the unit's clear standards under subsection (b), as applicable, were adhered to in the development of the project. However, if the office determines at any time after the start of the commercial solar project's full commercial operation that the unit has failed to continue to meet the requirement for certification set forth in subsection (a)(3) or (b)(3), as applicable, the office shall discontinue the incentive granted under this subsection and shall require the unit to return to the fund any amounts collected by the unit under this subsection after the unit's breach of the requirement for certification set forth in subsection (a)(3) or (b)(3), as applicable.

(e) After:

- (1) a unit receives certification as a commercial solar energy ready community under this section; and
- (2) a project owner constructs a commercial solar project that qualifies the unit to receive the incentive payments under subsection (d);

the project owner shall annually report to the office the total megawatt hours generated by the commercial solar project in the previous year.

As added by P.L.50-2023, SEC.1. Amended by P.L.9-2024, SEC.37; P.L.87-2024, SEC.4.

IC 4-3-23.1-14 Certification as wind energy ready community; application to office; determinations for certification; financial incentive for certified unit; annual reporting of energy generated

Sec. 14. (a) A unit may apply to the office for certification as a wind energy ready community. The application must be in a form and manner prescribed by the office. Subject to section 12(c) of this chapter, the office may approve an application and certify a unit as a wind energy ready community if the office determines the following:

- (1) That the unit has adopted a wind power regulation that includes clear standards for the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices (as defined in IC 8-1-41-7) in the unit.
- (2) That the unit's wind power regulation:
 - (A) includes standards that are not more restrictive, directly or indirectly, than the default standards for wind power devices set forth in IC 8-1-41;
 - (B) provides a clear and transparent process for project owners to identify potential wind power project sites;
 - (C) does not unreasonably eliminate portions of the unit as sites for wind power projects;
 - (D) provides for a fair review and approval process for proposed wind power projects, including final approval that cannot be revoked; and
 - (E) includes a specific plan for using any funds from an incentive granted by the office under subsection (d):
 - (i) for economic development purposes within or near the wind power project's footprint; or
 - (ii) to otherwise benefit residents and businesses within or near the wind power project's footprint.
- (3) That the unit has demonstrated a commitment to maintain:
 - (A) the standards and procedural framework set forth in the unit's wind power regulation; and
 - (B) all applicable zoning, land use, and planning regulations;with respect to any particular wind power project that is approved under the unit's wind power regulation, for a period of at least ten (10) years, beginning with the start date of the wind power project's full commercial operation or the date of the office's certification of the unit under this section, whichever is later.

(b) If a unit has not adopted a wind power regulation, the unit may apply to the office for certification as a wind energy ready community. The application must be in a form and manner prescribed by the office. Subject to section 12(c) of this chapter, the office may

approve an application and certify a unit as a wind energy ready community if the office determines the following:

(1) That the unit has clear standards for the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices (as defined in IC 8-1-41-7) in the unit.

(2) That the unit's clear standards:

(A) are not more restrictive, directly or indirectly, than the default standards for wind power devices set forth in IC 8-1-41;

(B) provide a clear and transparent process for project owners to identify potential wind power project sites;

(C) do not unreasonably eliminate portions of the unit as sites for wind power projects;

(D) provide for a fair review and approval process for proposed wind power projects, including final approval that cannot be revoked; and

(E) include a specific plan for using any funds from an incentive granted by the office under subsection (d):

(i) for economic development purposes within or near the wind power project's footprint; or

(ii) to otherwise benefit residents and businesses within or near the wind power project's footprint.

(3) That the unit has demonstrated a commitment to maintain its clear standards for a period of at least ten (10) years, beginning with the start date of the wind power project's full commercial operation or date of the office's certification of the unit under this section, whichever is later.

(c) For purposes of subsection (b), the office may consider one (1) or more of the following as evidence of a unit's clear standards with respect to the construction, installation, siting, modification, operation, or decommissioning of one (1) or more wind power devices (as defined in IC 8-1-41-7) in the unit:

(1) A contract or an otherwise binding agreement between the unit and a project owner.

(2) An economic development agreement.

(3) Any other documentation that the office determines provides sufficient evidence of the unit's clear standards.

(d) If:

(1) a unit receives certification as a wind energy ready community by the office under this section;

(2) after the unit's certification, a wind power project is constructed or has been constructed in the unit; and

(3) the fund is established and there is a sufficient balance in the fund;

the office may authorize the unit to receive from the fund, for a period of ten (10) years beginning with the start date of the wind power project's full commercial operation or the date of the office's certification of the unit under this section, whichever is later, one dollar (\$1) per megawatt hour of electricity generated by the wind power project, if the office determines that the procedures and standards set forth in the unit's wind power regulation under subsection (a) or the unit's clear standards under subsection (b), as applicable, were adhered to in the development of the project. However, if the office determines at any time after the start of the wind power project's full commercial operation that the unit has failed to continue to meet the requirement for certification set forth in subsection (a)(3) or (b)(3), as applicable, the office shall discontinue the incentive granted under this subsection and shall require the unit to return to the fund any amounts collected by the unit under this subsection after the unit's breach of the requirement for certification set forth in subsection (a)(3) or (b)(3), as applicable.

(e) After:

(1) a unit receives certification as a wind energy ready community under this section;

and

(2) a project owner constructs a wind power project that qualifies the unit to receive the incentive under subsection (d);

the project owner shall annually report to the office the total megawatt hours generated by the wind power project in the previous year.

As added by P.L.50-2023, SEC.1. Amended by P.L.9-2024, SEC.38; P.L.87-2024, SEC.5.

IC 4-3-23.1-15 Certification as both a commercial solar energy ready community and a wind energy ready community

Sec. 15. A unit may be certified as both:

(1) a commercial solar energy ready community under section 13 of this chapter; and

(2) a wind energy ready community under section 14 of this chapter;

if the unit meets the requirements for certification set forth in both sections 13 and 14 of this chapter.

As added by P.L.50-2023, SEC.1.

IC 4-3-23.1-16 Commercial solar and wind energy ready communities incentive fund; authorization to establish; purpose; administration by office; source of funds

Sec. 16. (a) The commercial solar and wind energy ready communities incentive fund may be established by the office for the purpose of:

(1) providing payments to commercial solar energy ready communities under section 13(d) of this chapter; and

(2) providing payments to wind energy ready communities under section 14(d) of this chapter.

(b) The fund, if established, shall be administered by the office.

(c) The fund, if established, shall consist of:

(1) grants, gifts, and donations intended for deposit in the fund;

(2) federal funds;

(3) interest that accrues from money in the fund; and

(4) any amounts returned to the fund by units under section 13(d) or 14(d) of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

As added by P.L.50-2023, SEC.1. Amended by P.L.87-2024, SEC.6.