

36-7-2-8

IC 36-7-2-8 Solar energy systems; ordinances; reasonable restrictions

Sec. 8. (a) As used in this section, "solar energy system" means either of the following:

- (1) any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, or for water heating; or
- (2) any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of energy for space heating or cooling, or for water heating.

(b) A unit may not adopt any ordinance which has the effect of prohibiting or of unreasonably restricting the use of solar energy systems other than for the preservation or protection of the public health and safety.

(c) This section does not apply to ordinances which impose reasonable restrictions on solar energy systems. However, it is the policy of this state to promote and encourage the use of solar energy systems and to remove obstacles to their use. Reasonable restrictions on solar energy systems are those restrictions which:

- (1) do not significantly increase the cost of the system or significantly decrease its efficiency; or
- (2) allow for an alternative system of comparable cost and efficiency.

As added by Acts 1981, P.L.311, SEC.2.

22-14-8

IC 22-14-8 Chapter 8. Utility Scale Battery Energy Storage Systems

[22-14-8-1](#)"Authority having jurisdiction"

[22-14-8-2](#)"NFPA 855"

[22-14-8-3](#)"Utility scale battery energy storage system"

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[22-14-8-5](#)Department of homeland security regulation of operation of utility scale battery energy storage systems

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[22-14-8-10](#)Adoption of rules by fire prevention and building safety commission

IC 22-14-8-1 "Authority having jurisdiction"

Sec. 1. For purposes of NFPA 855 and this chapter, "authority having jurisdiction" refers to the department.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-2 "NFPA 855"

Sec. 2. As used in this chapter, "NFPA 855" refers to:

- (1) the 2023 edition of NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, as adopted by the National Fire Protection Association; or
- (2) if the commission adopts a rule under [IC 4-22-2](#) to amend:
 - (A) the 2023 edition; or
 - (B) any subsequent edition;

of NFPA 855, the version of NFPA 855 as amended by the commission.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-3 "Utility scale battery energy storage system"

Sec. 3. (a) As used in this chapter, "utility scale battery energy storage system" means an energy storage system (as defined in NFPA 855) that is capable of storing and releasing more than one (1) megawatt of electrical energy for a minimum of one (1) hour using an AC inverter and DC storage.

(b) The term does not include the following:

- (1) Foundations or property used to directly or indirectly connect the AC inverter or DC storage of such a system to electrical energy production equipment or to a customer's meter.
- (2) An energy storage system that is used for the purpose of providing electricity to meet or offset all or part of a host operation's energy needs.
- (3) A battery recycling facility.
- (4) The manufacturing or storage of batteries by an automobile manufacturer.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-4 Department of homeland security regulation of installation or expansion of utility scale battery energy storage systems

Sec. 4. (a) After June 30, 2023, a person may not:

- (1) install a new utility scale battery energy storage system; or
- (2) expand the capacity of an existing utility scale battery energy storage system by more than ten percent (10%) of the system's original capacity;

without applying for and obtaining the prior approval of the department.

(b) An application for approval under subsection (a) must be in the form and manner specified by the department and must include the following information:

- (1) The proposed location, including the county, of the utility scale battery energy storage system.
- (2) Plans and specifications for the utility scale battery energy storage system.
- (3) A description of the manner in which the utility scale battery energy storage system will comply with the requirements set forth in sections 6 through 8 of this chapter, as applicable.
- (4) The applicant's proposed emergency response plan for responding to a:
 - (A) fire at; or
 - (B) discharge or threatened discharge of environmental contaminants by;the utility scale battery energy storage system.
- (5) The applicant's plan for offering emergency response training under section 9 of this chapter.

The operator of a utility scale battery energy storage system for which installation is complete before July 1, 2023, shall submit to the department before January 1, 2024, a notice providing the information set forth in this subsection with respect to the utility scale battery energy storage system.

(c) An application fee of two hundred fifty dollars (\$250) per application must be included with each application submitted under this section.

(d) Not later than thirty (30) days after the department receives an application for approval under subsection (a) and the accompanying application fee under subsection (c), the department shall provide notice to the applicant of the department's approval or disapproval of the application. The department shall approve an application that complies with this chapter.

(e) The department may adopt procedures under which the department:

- (1) evaluates an application for approval under subsection (a); and
- (2) makes a determination as to whether to approve the installation or expansion proposed by the application.

(f) The department is the sole authority with respect to the regulation and approval of the installation or expansion of a utility scale battery energy storage system. Subject to subsection (g), a local unit may not:

- (1) require the owner or operator of a utility scale battery energy storage system to obtain a separate approval, permit, or license for the installation, expansion, or operation of the utility scale battery energy storage system;
- (2) impose any fee on the owner or operator of a utility scale battery energy storage system; or
- (3) regulate the ownership or operation of a utility scale battery energy storage system.

(g) Subsection (f) does not:

- (1) affect the ability of a local unit to exercise zoning, land use, planning, or permitting authority otherwise allowed under law, including [IC 36-7](#), with respect to the installation or expansion of a utility scale battery energy storage system;
- (2) exempt an applicant for the installation or expansion of a utility scale battery energy storage system from complying with applicable laws and ordinances concerning land use; or
- (3) affect the authority of the Indiana utility regulatory commission granted under [IC 8](#).

As added by P.L.217-2023, SEC.1.

IC 22-14-8-5 Department of homeland security regulation of operation of utility scale battery energy storage systems

Sec. 5. (a) A person may not operate a utility scale battery energy storage system installed after June 30, 2023, unless the person has first applied for and obtained the approval of the department to do so.

(b) An application under this section must contain:

- (1) a commissioning plan; and
- (2) a commissioning test;

that complies with NFPA 855.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-6 Utility scale battery energy storage systems; compliance with NFPA 855

Sec. 6. (a) A utility scale battery energy storage system installation of which is subject to department approval under section 4(a)(1) of this chapter must comply with NFPA 855.

(b) An installation added to an existing utility scale battery energy storage system in an expansion for which department approval is required under section 4(a)(2) of this chapter must comply with NFPA 855.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-7 Utility scale battery energy storage systems; capacity limit on single enclosure

Sec. 7. The total capacity of the batteries contained within a single enclosure in:

(1) a utility scale battery energy storage system installation of which is subject to department approval under section 4(a)(1) of this chapter; or

(2) an installation added to an existing utility scale battery energy storage system in an expansion for which department approval is required under section 4(a)(2) of this chapter;

may not exceed ten (10) megawatt hours unless authorized under rules adopted by the commission under this chapter.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-8 Utility scale battery energy storage systems; flood plain elevation requirement

Sec. 8. (a) This section applies only to a utility scale battery energy storage system installation of which is subject to department approval under section 4(a)(1) of this chapter.

(b) If a utility scale battery energy storage system is located less than one-half (1/2) mile from the nearest one hundred (100) year flood plain, as determined by the most recently issued Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps, all of the system's equipment must be located at least two (2) feet above the one hundred (100) year frequency flood elevation.

As added by P.L.217-2023, SEC.1.

IC 22-14-8-9 Utility scale battery energy storage systems; emergency response plan and training for local fire department

Sec. 9. (a) The operator of a utility scale battery energy storage system shall:

(1) provide a copy of the emergency response plan described in section 4(b)(4) of this chapter, as finally adopted, to the fire department that is responsible for providing fire protection services in the area in which the utility scale battery energy storage system is located; and

(2) offer on an annual basis a training session described in subsection (b) to the members of the fire department described in subdivision (1). For a utility scale battery energy storage system for which installation is complete before July 1, 2023, the first training under this subdivision must be offered before January 1, 2024.

(b) Subject to subsection (c), the training offered under subsection (a)(2) must provide participating members of the fire department with information regarding the installation and operation of the utility scale battery energy storage system reasonably necessary to allow the fire department to safely and effectively respond to a:

(1) fire at; or

(2) discharge or threatened discharge of environmental contaminants by;

the utility scale battery energy storage system.

(c) This section does not require the operator of a utility scale battery energy storage system to divulge a trade secret (as defined in [IC 24-2-3-2](#)).

As added by P.L.217-2023, SEC.1.

IC 22-14-8-10 Adoption of rules by fire prevention and building safety commission

Sec. 10. (a) The commission may adopt rules under [IC 4-22-2](#) to implement this chapter and to specify standards for the installation and operation of utility scale battery energy storage systems consistent with:

(1) this chapter; and

(2) NFPA 855.

(b) Rules adopted by the commission under subsection (a) must include standards for:

(1) chemical spill prevention and control; and

(2) appropriate setbacks from surface water resources;

for the installation and expansion of utility scale battery energy storage systems, as necessary to protect soil and surface water resources from chemicals contained in or produced by utility scale battery energy storage systems. In establishing the standards described in this subsection, the commission shall consult with the department of environmental management or the department of natural resources, as appropriate.

(c) In adopting rules under this section, the commission may adopt emergency rules in the manner provided by [IC 4-22-2-37.1](#).

As added by P.L.217-2023, SEC.1.

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"

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[8-1-42-4](#) "Dwelling"

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[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

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[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 8-1-42-9Permit 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 8-1-42-10Setback 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 8-1-42-11Ground 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 8-1-42-12Fencing

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 8-1-42-13Underground 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 8-1-42-14Glare 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 8-1-42-15Signal 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 8-1-42-16Sound 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 8-1-42-17Damage 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 8-1-42-18Decommissioning 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 8-1-42-19CSE 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.