



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

SB3078

Introduced 1/29/2026, by Sen. Christopher Belt

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12024  
505 ILCS 147/10  
505 ILCS 147/15

Amends the Counties Code. In provisions concerning energy storage systems, provides that the farmland drainage plan that a facility owner must file with a county shall include, among other things, plans to repair any subsurface drainage affected during construction or deconstruction using procedures outlined in the agricultural impact mitigation agreement (rather than outlined in the decommissioning plan) and procedures for the repair and restoration of surface drainage affected during construction or deconstruction. Provides that a county shall (rather than may) require a facility owner to provide a decommissioning plan to the county. Makes changes to the requirements of a decommissioning plan. Provides that a county shall (rather than may) require the facility owner to submit to the county (i) a commercial operation a commissioning report meeting specified requirements of specified publications of the National Fire Protection Association; (ii) a hazard mitigation analysis meeting specified requirements of specified publications of the National Fire Protection Association; (iii) an emergency operations plan meeting specified requirements of specified publications of the National Fire Protection Association; and (iv) a warning that complies with specified publications of the National Fire Protection Association. Provides that the energy storage system owner shall enter into one agricultural impact mitigation agreement for each energy storage system. Requires the agricultural impact mitigation agreement for an energy storage system to include specified plans. Requires a commercial renewable energy facility owner to make available a copy of the signed agricultural impact mitigation agreement at the site of the commercial renewable energy facility during any construction or deconstruction activities. Makes other changes.

LRB104 18515 RTM 31957 b

1 AN ACT concerning agriculture.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 Section 5-12024 as follows:

6 (55 ILCS 5/5-12024)

7 (This Section may contain text from a Public Act with a  
8 delayed effective date)

9 Sec. 5-12024. Energy storage systems.

10 (a) As used in this Section:

11 "Energy storage system" means a facility with an aggregate  
12 energy capacity that is greater than 500 ~~1,000~~ kilowatts and  
13 that is capable of absorbing energy and storing it for use at a  
14 later time, including, but not limited to, electrochemical and  
15 electromechanical technologies. "Energy storage system" does  
16 not include technologies that require combustion. "Energy  
17 storage system" also does not include energy storage systems  
18 associated with commercial solar energy facilities or  
19 commercial wind energy facilities as defined in Section  
20 5-12020.

21 "Excused service interruption" means any period during  
22 which an energy storage system does not store or discharge  
23 electricity and that is planned or reasonably foreseeable for

1 standard commercial operation, including any unavailability  
2 caused by a buyer; storage capacity tests; system emergencies;  
3 curtailments, including curtailment orders; transmission  
4 system outages; compliance with any operating restriction;  
5 serial defects; and planned outages.

6 "Facility owner" means (i) a person with a direct  
7 ownership interest in an energy storage system, regardless of  
8 whether the person is involved in acquiring the necessary  
9 rights, permits, and approvals or otherwise planning for the  
10 construction and operation of the facility and (ii) a person  
11 who, at the time the facility is being developed, is acting as  
12 a developer of the facility by acquiring the necessary rights,  
13 permits, and approvals or by planning for the construction and  
14 operation of the facility, regardless of whether the person  
15 will own or operate the facility.

16 "Force majeure" means any event or circumstance that  
17 delays or prevents an energy storage system from timely  
18 performing all or a portion of its commercial operations if  
19 the act or event, despite the exercise of commercially  
20 reasonable efforts, cannot be avoided by and is beyond the  
21 reasonable control, whether direct or indirect, of, and  
22 without the fault or negligence of, a facility owner or  
23 operator or any of its assignees. "Force majeure" includes,  
24 but is not limited to:

25 (1) fire, flood, tornado, or other natural disasters  
26 or acts of God;

1 (2) war, civil strife, terrorist attack, or other  
2 similar acts of violence;

3 (3) unavailability of materials, equipment, services,  
4 or labor, including unavailability due to global supply  
5 chain shortages;

6 (4) utility or energy shortages or acts or omissions  
7 of public utility providers;

8 (5) any delay resulting from a pandemic, epidemic, or  
9 other public health emergency or related restrictions; and

10 (6) litigation or a regulatory proceeding regarding a  
11 facility.

12 "NFPA" means the National Fire Protection Association.

13 "Nonparticipating property" means real property that is  
14 not a participating property.

15 "Nonparticipating residence" means a residence that is  
16 located on nonparticipating property and that exists and is  
17 occupied on the date that the application for a permit to  
18 develop an energy storage system is filed with the county.

19 "Occupied community building" means a school, place of  
20 worship, day care facility, public library, or community  
21 center that is occupied on the date that the application for a  
22 permit to develop an energy storage system is filed with the  
23 county in which the building is located.

24 "Participating property" means real property that is the  
25 subject of a written agreement between a facility owner and  
26 the owner of the real property and that provides the facility

1 owner an easement, option, lease, or license to use the real  
2 property for the purpose of constructing an energy storage  
3 system or supporting facilities.

4 "Protected lands" means real property that is: (i) subject  
5 to a permanent conservation right consistent with the Real  
6 Property Conservation Rights Act; or (ii) registered or  
7 designated as a nature preserve, buffer, or land and water  
8 reserve under the Illinois Natural Areas Preservation Act.

9 "Supporting facilities" means the transmission lines,  
10 substations, switchyard, access roads, meteorological towers,  
11 storage containers, and equipment associated with the  
12 generation, storage, and dispatch of electricity by an energy  
13 storage system.

14 (b) Notwithstanding any other provision of law or whether  
15 ~~, if~~ a county has formed a zoning commission and adopted formal  
16 zoning under Section 5-12007, ~~then~~ a county may establish  
17 standards for energy storage systems in areas of the county  
18 that are not within the zoning jurisdiction of a municipality.  
19 The standards may include all of the requirements specified in  
20 this Section but may not include requirements for energy  
21 storage systems that are more restrictive than specified in  
22 this Section or requirements that are not specified in this  
23 Section.

24 (c) A county shall ~~may~~ require the energy storage facility  
25 to comply with the version of NFPA 855 "Standard for the  
26 Installation of Stationary Energy Storage Systems" in effect

1 on the effective date of this amendatory Act or any successor  
2 standard issued by the NFPA in effect on the date of siting or  
3 special use permit approval. A county may not include  
4 requirements for energy storage systems that are more  
5 restrictive than NFPA 855 "Standard for the Installation of  
6 Stationary Energy Storage Systems" unless required by this  
7 Section.

8 (d) If a county has elected to establish standards under  
9 subsection (b), then the ~~zoning board of appeals for the~~  
10 county shall hold at least one public hearing before the  
11 county grants (i) siting approval or a special use permit for  
12 an energy storage system or (ii) modification of an approved  
13 siting or special use permit. The public hearing shall be  
14 conducted in accordance with the Open Meetings Act and shall  
15 conclude not more than 60 days after the filing of the  
16 application for the facility. The county shall allow  
17 interested parties to a special use permit an opportunity to  
18 present evidence and to cross-examine witnesses at the  
19 hearing, but the county may impose reasonable restrictions on  
20 the public hearing, including reasonable time limitations on  
21 the presentation of evidence and the cross-examination of  
22 witnesses. The county shall also allow public comment at the  
23 public hearing in accordance with the Open Meetings Act. The  
24 county shall make its siting and permitting decisions not more  
25 than 30 days after the conclusion of the public hearing.  
26 Notice of the hearing shall be published in a newspaper of

1 general circulation in the county.

2 (e) A county with an existing zoning ordinance in conflict  
3 with this Section shall amend that zoning ordinance to comply  
4 with this Section within 120 days after the effective date of  
5 this amendatory Act of the 104th General Assembly.

6 (f) A county shall require an energy storage system to be  
7 sited as follows, with setback distances measured from the  
8 nearest edge of the nearest battery or other electrochemical  
9 or electromechanical enclosure:

10 Setback Description	Setback Distance
11 Occupied Community 12 Buildings and 13 Nonparticipating Residences 14	150 feet from the nearest point of the outside wall of the occupied community building or nonparticipating residence
15 Boundary Lines of 16 Occupied Community 17 Buildings and 18 Nonparticipating Residences	50 feet to the nearest point on the property line of the occupied community building or nonparticipating property
19 Public Road Rights-of-Way 20	50 feet from the nearest edge of the right-of-way

21 (2) A county shall also require an energy storage  
22 system to be sited so that the facility's perimeter is

1 enclosed by fencing having a height of at least 7 feet and  
2 no more than 25 feet.

3 This Section does not exempt or excuse compliance with  
4 electric facility clearances approved or required by the  
5 National Electrical Code, the National Electrical Safety Code,  
6 the Illinois Commerce Commission, the Federal Energy  
7 Regulatory Commission, and their designees or successors.

8 (g) A county may not set a sound limitation for energy  
9 storage systems that is more restrictive than the sound  
10 limitations established by the Illinois Pollution Control  
11 Board under 35 Ill. Adm. Code Parts 900, 901, and 910. After  
12 commercial operation, a county may require the facility owner  
13 to provide, not more than once, octave band sound pressure  
14 level measurements from a reasonable number of sampled  
15 locations at the perimeter of the energy storage system to  
16 demonstrate compliance with this Section.

17 (h) The provisions set forth in subsection (f) may be  
18 waived subject to the written consent of the owner of each  
19 affected nonparticipating property or nonparticipating  
20 residence.

21 (i) A county may not place any restriction on the  
22 installation or use of an energy storage system unless it ~~has~~  
23 ~~formed a zoning commission and adopted formal zoning under~~  
24 ~~Section 5-12007 and~~ adopts an ordinance that complies with  
25 this Section. A county may not establish siting standards for  
26 supporting facilities that preclude development of an energy

1 storage system.

2 (j) A request for siting approval or a special use permit  
3 for an energy storage system, or modification of an approved  
4 siting approval or special use permit, shall be approved if  
5 the request complies with the standards and conditions imposed  
6 in this Code, the zoning ordinance adopted consistent with  
7 this Section, and other State and federal statutes and  
8 regulations. The siting approval or special use permit  
9 approved by the county shall grant the facility owner a period  
10 of at least 3 years after county approval to obtain a building  
11 permit or commence construction of the energy storage system,  
12 before the siting approval or special use permit may become  
13 subject to revocation by the county. Facility owners may be  
14 granted an extension on obtaining building permits or  
15 commencing constructing upon a showing of good cause. A  
16 facility owner's request for an extension may not be  
17 unreasonably withheld, conditioned, or denied.

18 (k) A county may not adopt zoning regulations that  
19 disallow, permanently or temporarily, an energy storage system  
20 from being developed or operated in any district zones to  
21 allow agricultural or industrial uses.

22 (l) A facility owner shall file a farmland drainage plan  
23 with the county and impacted drainage districts that outlines  
24 how surface and subsurface drainage of farmland will be  
25 restored during and following the construction or  
26 deconstruction of the energy storage system. The plan shall be

1 created independently by the facility owner and shall include  
2 the location of any potentially impacted drainage district  
3 facilities to the extent the information is publicly available  
4 from the county or the drainage district, plans to repair any  
5 subsurface drainage affected during construction or  
6 deconstruction using procedures outlined in the agricultural  
7 impact mitigation agreement entered into by the facility  
8 owner, and procedures for the repair and restoration of  
9 surface drainage affected during construction or  
10 deconstruction and ~~plans to repair any subsurface drainage~~  
11 ~~affected during construction or deconstruction using~~  
12 ~~procedures outlined in the decommissioning plan.~~ All surface  
13 and subsurface damage shall be repaired as soon as reasonably  
14 practicable.

15 (m) A facility owner shall compensate landowners for crop  
16 losses or other agricultural damages resulting from damage to  
17 a drainage system caused by the construction or deconstruction  
18 of an energy storage system. The facility owner shall repair  
19 or pay for the repair of all damage to the subsurface drainage  
20 system caused by the construction of the energy storage  
21 system. The facility owner shall repair or pay for the repair  
22 and restoration of surface drainage caused by the construction  
23 or deconstruction of the energy storage facility as soon as  
24 reasonably practicable.

25 (n) County siting approval or special use permit  
26 application fees for an energy storage system shall not exceed

1 the lesser of (i) \$5,000 per each megawatt of nameplate  
2 capacity of the energy storage system or (ii) \$50,000.

3 (o) The county shall ~~may~~ require a facility owner to  
4 provide a decommissioning plan to the county that complies  
5 with the Department of Agriculture's standard energy storage  
6 system agricultural impact mitigation agreement. The  
7 decommissioning plan may include all requirements for  
8 decommissioning plans in NFPA 855 and may also require the  
9 facility owner to:

10 (1) state how the energy storage system will be  
11 decommissioned, including removal to a depth of 5 ~~3~~ feet  
12 of all structures that have no ongoing purpose and all  
13 debris and restoration of the soil and any vegetation to a  
14 condition as close as reasonably practicable to the soil's  
15 and vegetation's preconstruction condition within 12 ~~18~~  
16 months of the end of project life or facility abandonment;

17 (2) include provisions related to commercially  
18 reasonable efforts to reuse or recycle of equipment and  
19 components associated with the commercial offsite energy  
20 storage system;

21 (3) include financial assurance in the form of a  
22 reclamation or surety bond or other commercially available  
23 financial assurance that is acceptable to the county in an  
24 amount that shall be in accordance with the financial  
25 assurance required by the Department of Agriculture's  
26 standard energy storage system agricultural impact

1        mitigation agreement;  ~~, with the county or participating~~  
2        ~~property owner as beneficiary. The amount of the financial~~  
3        ~~assurance shall not be more than the estimated cost of~~  
4        ~~decommissioning the energy facility, after deducting~~  
5        ~~salvage value, as calculated by a professional engineer~~  
6        ~~licensed to practice engineering in this State with~~  
7        ~~expertise in preparing decommissioning estimates, retained~~  
8        ~~by the applicant. The financial assurance shall be~~  
9        ~~provided to the county incrementally as follows:~~

10            ~~(A) 25% before the start of full commercial~~  
11            ~~operation;~~

12            ~~(B) 50% before the start of the 5th year of~~  
13            ~~commercial operation; and~~

14            ~~(C) 100% by the start of the tenth year of~~  
15            ~~commercial operation;~~

16            (4) update the amount of the financial assurance not  
17        more than every 5 years for the duration of commercial  
18        operations. The amount shall be calculated by a  
19        professional engineer licensed to practice engineering in  
20        this State with expertise in decommissioning, hired by the  
21        facility owner; and

22            (5) decommission the energy storage system, in  
23        accordance with an approved decommissioning plan, within  
24        18 months after abandonment. An energy storage system that  
25        has not stored electrical energy for 12 consecutive months  
26        or that fails, for a period of 6 consecutive months, to pay

1 a property owner who is party to a written agreement,  
2 including, but not limited to, an easement, option, lease,  
3 or license under the terms of which an energy storage  
4 system is constructed on the property, amounts owed in  
5 accordance with the written agreement shall be considered  
6 abandoned, ~~except when the inability to store energy is~~  
7 ~~the result of an event of force majeure or excused service~~  
8 ~~interruption.~~

9 (p) A county may not condition approval of an energy  
10 storage system on a property value guarantee and may not  
11 require a facility owner to pay into a neighboring property  
12 devaluation escrow account.

13 (q) A county may require that a facility owner provide the  
14 results and recommendations from consultation with the  
15 Department of Natural Resources that are obtained through the  
16 Ecological Compliance Assessment Tool (EcoCAT) or a comparable  
17 successor tool.

18 (r) A county may require an energy storage system to  
19 adhere to the recommendations provided by the Department of  
20 Natural Resources in an Agency Action Report under 17 Ill.  
21 Adm. Code 1075.

22 (s) A county may require a facility owner to:

23 (1) demonstrate avoidance of protected lands as  
24 identified by the Department of Natural Resources and the  
25 Illinois Nature Preserves Commission; or

26 (2) consider the recommendations of the Department of

1 Natural Resources for setbacks from protected lands,  
2 including areas identified by the Illinois Nature  
3 Preserves Commission.

4 (t) A county may require that a facility owner provide  
5 evidence of consultation with the Illinois Historic  
6 Preservation Division to assess potential impacts on  
7 State-registered historic sites under the Illinois State  
8 Agency Historic Resources Preservation Act.

9 (u) A county may require that an application for siting  
10 approval or special use permit include the following  
11 information on a site plan:

12 (1) a description of the property lines and physical  
13 features, including roads, for the facility site;

14 (2) a description of the proposed changes to the  
15 landscape of the facility site, including vegetation  
16 clearing and planting, exterior lighting, and screening or  
17 structures; and

18 (3) a description of the zoning district designation  
19 for the parcel of land comprising the facility site.

20 (v) A county may not prohibit an energy storage system  
21 from undertaking periodic augmentation to maintain the  
22 approximate original capacity of the energy storage system. A  
23 county may not require renewed or additional siting approval  
24 or special use permit approval of periodic augmentation to  
25 maintain the approximate original capacity of the energy  
26 storage system.

1 (w) A county that issues a building permit for energy  
2 storage systems shall review and process building permit  
3 applications within 60 days after receipt of the building  
4 permit application. If a county does not grant or deny the  
5 building permit application within 60 days, the building  
6 permit shall be deemed granted. If a county denies a building  
7 permit application, it shall specify the reason for the denial  
8 in writing as part of its denial.

9 (x) A county may require a single building permit and a  
10 reasonable permit fee for the facility which includes all  
11 supporting facilities. A county building permit fee for an  
12 energy storage system that does not exceed the lesser of (i)  
13 \$5,000 per each megawatt of nameplate capacity of the energy  
14 storage system or (ii) \$50,000 shall be considered  
15 presumptively reasonable. A county may require that the  
16 application for building permit contain:

17 (1) an electrical diagram detailing the battery energy  
18 storage system layout, associated components, and  
19 electrical interconnection methods, with all National  
20 Electrical Code compliant disconnects and overcurrent  
21 devices; and

22 (2) an equipment specification sheet.

23 (y) A county shall ~~may~~ require the facility owner to  
24 submit to the county prior to the facility's commercial  
25 operation a commissioning report meeting the requirements of  
26 NFPA 855 Sections 4.2.4, 6.1.3, and 6.1.5.5, as published in

1 2023, or the applicable Sections in the most recent version of  
2 NFPA 855.

3 (z) A county shall ~~may~~ require the facility owner to  
4 submit to the county prior to the facility's commercial  
5 operation a hazard mitigation analysis meeting the  
6 requirements of NFPA 855 Section 4.4 or the applicable  
7 Sections in the most recent version of NFPA 855.

8 (aa) A county shall ~~may~~ require the facility owner to  
9 submit to the county an emergency operations plan meeting the  
10 requirements of NFPA 855 Section 4.3.2.1.4, published in 2023,  
11 or applicable Sections in the most recent version of NFPA 855,  
12 prior to commercial operation.

13 (bb) A county shall ~~may~~ require a warning that complies  
14 with requirements in NFPA 855 Section 4.7.4, published in  
15 2023, or applicable sections in the most recent version of  
16 NFPA 855.

17 (cc) A county may require the energy storage system to  
18 adhere to the principles for responsible outdoor lighting  
19 provided by the International Dark-Sky Association and shall  
20 limit outdoor lighting to that which is minimally required for  
21 safety and operational purposes. Any outdoor lighting shall be  
22 reasonably shielded and downcast from all residences and  
23 adjacent properties.

24 (dd) This Section does not exempt compliance with fire and  
25 safety standards and guidance established for the installation  
26 of lithium-ion battery energy storage systems set by the NFPA.

1 (ee) Prior to commencement of commercial operation, the  
2 facility owner shall offer to provide training for local fire  
3 departments and emergency responders in accordance with the  
4 facility emergency operations plan. A copy of the emergency  
5 operations plan shall be given to the facility owner, the  
6 local fire department, and emergency responders. All batteries  
7 integrated within an energy storage system shall be listed  
8 under the UL 1973 Standard. All batteries integrated within an  
9 energy storage system shall be listed in accordance with UL  
10 9540 Standard, either from the manufacturer or by a field  
11 evaluation.

12 (ff) If a facility owner enters into a road use agreement  
13 with the Department of Transportation, a road district, or  
14 other unit of local government relating to an energy storage  
15 system, then the road use agreement shall require the facility  
16 owner to be responsible for (i) the reasonable cost of  
17 improving, if necessary, roads used by the facility owner to  
18 construct the energy storage system and (ii) the reasonable  
19 cost of repairing roads used by the facility owner during  
20 construction of the energy storage system so that those roads  
21 are in a condition that is safe for the driving public after  
22 the completion of the facility's construction. A roadway  
23 improved in preparation for and during the construction of the  
24 energy storage system shall be repaired and restored to the  
25 improved condition at the reasonable cost of the developer if  
26 the roadways have degraded or were damaged as a result of

1 construction-related activities.

2 The road use agreement shall not require the facility  
3 owner to pay costs, fees, or charges for road work that is not  
4 specifically and uniquely attributable to the construction of  
5 the energy storage system. No road district or other unit of  
6 local government may request or require a fine, permit fee, or  
7 other payment obligation as a requirement for a road use  
8 agreement with a facility owner unless the amount of the fine,  
9 permit fee, or other payment obligation is equivalent to the  
10 amount of actual expenses incurred by the road district or  
11 other unit of local government for negotiating, executing,  
12 constructing, or implementing the road use agreement. The road  
13 use agreement shall not require the facility owner to perform  
14 or pay for any road work that is unrelated to the road  
15 improvements required for the construction of the commercial  
16 wind energy facility or the commercial solar energy facility  
17 or the restoration of the roads used by the facility owner  
18 during construction-related activities.

19 (gg) The provisions of this amendatory Act of the 104th  
20 General Assembly do not apply to an application for siting  
21 approval or special use permit for an energy storage system if  
22 the application was submitted to a county before the effective  
23 date of this amendatory Act of the 104th General Assembly.

24 (Source: P.A. 104-458, eff. 6-1-26.)

25 Section 10. The Renewable Energy Facilities Agricultural

1 Impact Mitigation Act is amended by changing Sections 10 and  
2 15 as follows:

3 (505 ILCS 147/10)

4 Sec. 10. Definitions. As used in this Act:

5 "Abandonment of a commercial wind energy facility" means  
6 when deconstruction has not been completed within 18 months  
7 after the commercial wind energy facility reaches the end of  
8 its useful life. For purposes of this definition, a commercial  
9 wind energy facility will be presumed to have reached the end  
10 of its useful life if (1) no electricity is generated for a  
11 continuous period of 12 months and (2) the commercial wind  
12 energy facility owner fails, for a period of 6 consecutive  
13 months, to pay the landowner amounts owed in accordance with  
14 the underlying agreement.

15 "Abandonment of a commercial solar energy facility" means  
16 when deconstruction has not been completed within 12 months  
17 after the commercial solar energy facility reaches the end of  
18 its useful life. For purposes of this definition, a commercial  
19 solar energy facility shall be presumed to have reached the  
20 end of its useful life if the commercial solar energy facility  
21 owner fails, for a period of 6 consecutive months, to pay the  
22 landowner amounts owed in accordance with the underlying  
23 agreement.

24 "Abandonment of an energy storage system" means when  
25 deconstruction has not been completed within 12 months after

1 the energy storage system reaches the end of its useful life.  
2 For purposes of this definition, an energy storage system  
3 shall be presumed to have reached the end of its useful life if  
4 (1) the energy storage system has not stored electrical energy  
5 for a continuous period of 12 months or (2) the energy storage  
6 system owner fails, for a period of 6 consecutive months, to  
7 pay the landowner amounts owed in accordance with the  
8 underlying agreement.

9 "Agricultural impact mitigation agreement" means an  
10 agreement between the commercial wind energy facility owner,  
11 ~~or~~ the commercial solar energy facility owner, or the energy  
12 storage system owner and the Department of Agriculture  
13 described in Section 15 of this Act.

14 "Commercial renewable energy facility " means a commercial  
15 wind energy facility, ~~or~~ commercial solar energy facility, or  
16 energy storage system as defined in this Act.

17 "Commercial solar energy facility" means a solar energy  
18 conversion facility equal to or greater than 500 kilowatts in  
19 total nameplate capacity, including a solar energy conversion  
20 facility seeking an extension of a permit to construct granted  
21 by a county or municipality before the effective date of this  
22 amendatory Act of the 100th General Assembly. "Commercial  
23 solar energy facility" does not include a solar energy  
24 conversion facility: (1) for which a permit to construct has  
25 been issued before the effective date of this amendatory Act  
26 of the 100th General Assembly; (2) that is located on land

1 owned by the commercial solar energy facility owner; (3) that  
2 was constructed before the effective date of this amendatory  
3 Act of the 100th General Assembly; or (4) that is located on  
4 the customer side of the customer's electric meter and is  
5 primarily used to offset that customer's electricity load and  
6 is limited in nameplate capacity to less than or equal to 2,000  
7 kilowatts.

8 "Commercial solar energy facility owner" means a private  
9 commercial enterprise that owns a commercial solar energy  
10 facility. A commercial solar energy facility owner is not nor  
11 shall it be deemed to be a public utility as defined in the  
12 Public Utilities Act.

13 "Commercial wind energy facility" means a wind energy  
14 conversion facility of equal or greater than 500 kilowatts in  
15 total nameplate generating capacity. "Commercial wind energy  
16 facility" includes a wind energy conversion facility seeking  
17 an extension of a permit to construct granted by a county or  
18 municipality before the effective date of this Act.

19 "Commercial wind energy facility" does not include a wind  
20 energy conversion facility: (1) that has submitted a complete  
21 permit application to a county or municipality and for which  
22 the hearing on the completed application has commenced on the  
23 date provided in the public hearing notice, which must be  
24 before the effective date of this Act; (2) for which a permit  
25 to construct has been issued before the effective date of this  
26 Act; or (3) that was constructed before the effective date of

1 this Act.

2 "Commercial wind energy facility owner" means a private  
3 commercial enterprise that owns or operates a commercial wind  
4 energy facility. A commercial wind energy facility owner is  
5 not nor shall it be deemed to be a public utility as defined in  
6 the Public Utilities Act.

7 "Construction" means the installation, preparation for  
8 installation, or repair of a commercial renewable energy  
9 facility.

10 "County" means the county where the commercial renewable  
11 energy facility is located.

12 "Deconstruction" means the removal of a commercial  
13 renewable energy facility from the property of a landowner and  
14 the restoration of that property as provided in the  
15 agricultural impact mitigation agreement.

16 "Department" means the Department of Agriculture.

17 "Energy storage system" means a facility with an aggregate  
18 energy capacity that is greater than 500 kilowatts and that is  
19 capable of absorbing energy and storing it for use at a later  
20 time, including, but not limited to, electrochemical and  
21 electromechanical technologies. "Energy storage system" does  
22 not include technologies that require combustion.

23 "Energy storage system owner" means a private commercial  
24 enterprise that owns an energy storage system. "Energy storage  
25 system owner" does not include a public utility, as defined in  
26 the Public Utilities Act.

1 "Landowner" means any person (1) with an ownership  
2 interest in property that is used for agricultural purposes  
3 and (2) that is a party to an underlying agreement.

4 "Underlying agreement" means the written agreement with a  
5 landowner, including, but not limited to, an easement, option,  
6 lease, or license, under the terms of which another person has  
7 constructed, constructs, or intends to construct a commercial  
8 wind energy facility, ~~or~~ commercial solar energy facility, or  
9 energy storage system on the property of the landowner.

10 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)

11 (505 ILCS 147/15)

12 Sec. 15. Agricultural impact mitigation agreement.

13 (a) A commercial renewable energy facility owner of a  
14 commercial wind energy facility, ~~or~~ a commercial solar energy  
15 facility, or an energy storage system that is located on  
16 landowner property shall enter into an agricultural impact  
17 mitigation agreement with the Department outlining  
18 construction and deconstruction standards and policies  
19 designed to preserve the integrity of any agricultural land  
20 that is impacted by commercial renewable energy facility  
21 construction and deconstruction. The construction and  
22 deconstruction of any commercial solar energy facility or  
23 energy storage system shall be in conformance with the  
24 Department's standard agricultural impact mitigation agreement  
25 referenced in subsection (f) of this Section. Except as

1 provided in subsection (a-5) of this Section, the terms and  
2 conditions of the Department's standard agricultural impact  
3 mitigation agreement are subject to and may be modified by an  
4 underlying agreement between the landowner and the commercial  
5 solar energy facility owner.

6 (a-5) Prior to the commencement of construction, a  
7 commercial solar energy facility owner or energy storage  
8 system owner shall submit to the county in which the  
9 commercial solar facility or energy storage system is to be  
10 located a deconstruction plan. A commercial solar energy  
11 facility owner or energy storage system owner shall provide  
12 the county with an appropriate financial assurance mechanism  
13 consistent with the Department's standard agricultural impact  
14 mitigation agreement for and to assure deconstruction in the  
15 event of an abandonment of a commercial solar energy facility  
16 or energy storage system.

17 (b) The agricultural impact mitigation agreement for a  
18 commercial wind energy facility shall include, but is not  
19 limited to, such items as restoration of agricultural land  
20 affected by construction, deconstruction (including upon  
21 abandonment of a commercial wind energy facility),  
22 construction staging, and storage areas; support structures;  
23 aboveground facilities; guy wires and anchors; underground  
24 cabling depth; topsoil replacement; protection and repair of  
25 agricultural drainage tiles; rock removal; repair of  
26 compaction and rutting; land leveling; prevention of soil

1 erosion; repair of damaged soil conservation practices;  
2 compensation for damages to private property; clearing of  
3 trees and brush; interference with irrigation systems; access  
4 roads; weed control; pumping of water from open excavations;  
5 advance notice of access to private property; indemnification  
6 of landowners; and deconstruction plans and financial  
7 assurance for deconstruction (including upon abandonment of a  
8 commercial wind energy facility).

9 (b-5) The agricultural impact mitigation agreement for a  
10 commercial solar energy facility shall include, but is not  
11 limited to, such items as restoration of agricultural land  
12 affected by construction, deconstruction (including upon  
13 abandonment of a commercial solar energy facility); support  
14 structures; aboveground facilities; guy wires and anchors;  
15 underground cabling depth; topsoil removal and replacement;  
16 rerouting and permanent repair of agricultural drainage tiles;  
17 rock removal; repair of compaction and rutting; construction  
18 during wet weather; land leveling; prevention of soil erosion;  
19 repair of damaged soil conservation practices; compensation  
20 for damages to private property; clearing of trees and brush;  
21 access roads; weed control; advance notice of access to  
22 private property; indemnification of landowners; and  
23 deconstruction plans and financial assurance for  
24 deconstruction (including upon abandonment of a commercial  
25 solar energy facility). The commercial solar energy facility  
26 owner shall enter into one agricultural impact mitigation

1 agreement for each commercial solar energy facility.

2 (b-10) The agricultural impact mitigation agreement for an  
3 energy storage system shall include, but shall not be limited  
4 to, plans for the restoration of agricultural land affected by  
5 construction, deconstruction, including upon abandonment of an  
6 energy storage system; plans for support structures; plans for  
7 aboveground facilities; plans for guy wires and anchors; plans  
8 for underground cabling depth; plans for topsoil removal and  
9 replacement; plans for rerouting and permanent repair of  
10 agricultural drainage tiles; plans for rock removal; plans for  
11 repairing of compaction and rutting; plans for construction  
12 during wet weather; plans for land leveling; plans for the  
13 prevention of soil erosion; plans for repairing damaged soil  
14 conservation practices; plans for compensation for any damages  
15 to private property; plans for the clearing of trees and  
16 brush; plans for access roads; plans for weed control; plans  
17 for providing advance notice of access to private property;  
18 plans for indemnification of landowners; and the  
19 deconstruction plans and financial assurance for  
20 deconstruction, including upon abandonment of an energy  
21 storage system. The energy storage system owner shall enter  
22 into one agricultural impact mitigation agreement for each  
23 energy storage system.

24 (c) For commercial wind energy facility owners or energy  
25 storage system owners seeking seeking a permit from a county  
26 or municipality for the construction of a commercial wind

1 energy facility or energy storage system, the agricultural  
2 impact mitigation agreement shall be entered into prior to the  
3 public hearing required prior to a siting decision of a county  
4 or municipality regarding the commercial wind energy facility  
5 or energy storage system. The agricultural impact mitigation  
6 agreement is binding on any subsequent commercial wind energy  
7 facility owner or energy storage system owner that takes  
8 ownership of the commercial wind energy facility or energy  
9 storage system that is the subject of the agreement.

10 (c-5) A commercial solar energy facility owner shall, not  
11 less than 45 days prior to commencement of actual  
12 construction, submit to the Department a standard agricultural  
13 impact mitigation agreement as referenced in subsection (f) of  
14 this Section signed by the commercial solar energy facility  
15 owner and including all information required by the  
16 Department. The commercial solar energy facility owner shall  
17 provide either a copy of that submitted agreement or a copy of  
18 the fully executed project-specific agricultural impact  
19 mitigation agreement to the landowner not less than 30 days  
20 prior to the commencement of construction. The agricultural  
21 impact mitigation agreement is binding on any subsequent  
22 commercial solar energy facility owner that takes ownership of  
23 the commercial solar energy facility that is the subject of  
24 the agreement.

25 (c-10) A commercial renewable energy facility owner shall  
26 make available a copy of the signed agricultural impact

1 mitigation agreement at the site of the commercial renewable  
2 energy facility during any construction or deconstruction  
3 activities. All contractors or subcontractors shall be trained  
4 on the requirements included in the signed agricultural impact  
5 mitigation agreement.

6 (d) If a commercial renewable energy facility owner seeks  
7 an extension of a permit granted by a county or municipality  
8 for the construction of a commercial wind energy facility  
9 prior to the effective date of this Act, the agricultural  
10 impact mitigation agreement shall be entered into prior to a  
11 decision by the county or municipality to grant the permit  
12 extension.

13 (e) The Department may adopt rules that are necessary and  
14 appropriate for the implementation and administration of  
15 agricultural impact mitigation agreements as required under  
16 this Act.

17 (f) The Department shall make available on its website a  
18 standard agricultural impact mitigation agreement applicable  
19 to all commercial solar energy facilities within 60 days after  
20 the effective date of this amendatory Act of the 100th General  
21 Assembly.

22 (g) Nothing in this amendatory Act of the 100th General  
23 Assembly and nothing in an agricultural impact mitigation  
24 agreement shall be construed to apply to or otherwise impair  
25 an underlying agreement for a commercial solar energy facility  
26 entered into prior to the effective date of this amendatory

1 Act of the 100th General Assembly.

2 (Source: P.A. 99-132, eff. 7-24-15; 100-598, eff. 6-29-18.)