

## Alberta codifies renewable energy policy objectives with new regulations

DECEMBER 13, 2024 6 MIN READ



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On December 6, 2024, the Government of Alberta introduced regulations placing new restrictions on — and creating new regulatory requirements for — new power plant development in the province. The changes come roughly 10 months after the Alberta Utilities Commission (AUC) completed “Module A” of its inquiry into the ongoing economic, orderly and efficient development of electricity generation in Alberta, and issued its [Module A Report](#) [PDF] on land-use considerations applicable to power plant development in the province.

We have previously reported on the Government of Alberta’s [Generation Approvals Pause Regulation](#) and the AUC’s inquiry in prior Updates on [August 3](#), [September 8](#), and [September 13, 2023](#), and [January 30](#) and [February 29, 2024](#).

We summarize the changes implemented under the new regulations below.

#### Electric Energy Land Use and Visual Assessment Regulation

The [Electric Energy Land Use and Visual Assessment Regulation](#),<sup>[1]</sup> made under the *Alberta Utilities Commission Act*, creates new application requirements, reporting requirements and restrictions related to the AUC’s approval of power plants under the *Hydro and Electric Energy Act*.

The regulations apply to all power plants (not only renewable power plants), although many of the restrictions and additional regulatory requirements apply only to solar and wind power plants. The regulations do not apply to

1. power plants less than 1 MW, isolated generating units or micro-generation
2. power plants on First Nation reserves
3. alterations to existing power plants

The regulations impose the following primary restrictions and requirements:

- Applications for solar and wind power plants on privately owned Class 1 or Class 2 land, or certain Class 3 land within designated municipalities (defined as “high-quality agricultural

land"), must include an agricultural impact assessment detailing the expected effects on agricultural productivity and demonstrating design measures for coexistence with agricultural land use.

- Owners or operators of solar or wind power plants on high-quality agricultural land must submit a report on the land's agricultural productivity to the AUC within 36 months of operation commencement. Reports must comply with any rules made by the AUC on assessing agricultural productivity post-construction.
- The AUC may require an irrigability assessment for power plant applications within the White Area.<sup>[2]</sup> Assessments may evaluate water quality/availability, proximity to irrigation infrastructure, economic viability of irrigation and opinions from relevant irrigation districts.
- The AUC is prohibited from accepting applications for wind power plants located within prescribed "buffer zones". The prescribed buffer zone appears to encompass the Rocky Mountains and foothills in the southwest of the province, stretching from Waterton Lakes National Park in the south to between Jasper National Park and Grande Prairie in the north, as described in Schedule 2 of the regulations.
- Applications for all power plants (including thermal power plants) within a prescribed "buffer zone" or "visual impact assessment zone" must include a visual impact assessment. The assessment must evaluate anticipated visual impacts, include visual simulations from key vantage points, and propose mitigation measures for adverse effects.

Restrictions and additional information requirements are not unexpected, and resemble the priorities reflected in the Government of Alberta's policy directions<sup>[3]</sup> and the proposed buffer zones and visual impact zones set out in an unofficial draft map released by the Government of Alberta in March 2024.<sup>[4]</sup> Alberta has released an updated [map \[PDF\]](#) to accompany the new regulations.

Despite findings by the AUC in its [Module A Report \[PDF\]](#) that renewable power plant development has a relatively minimal impact on agricultural land in the province,<sup>[5]</sup> the Government of Alberta signaled on February 28, 2024, that it "will bring forward the necessary policy and legislative tools to direct the AUC to take an 'Agriculture First' approach, and when making decisions, evaluate the best use of agricultural lands proposed for renewable development."<sup>[6]</sup> The AUC has since applied greater scrutiny to agricultural land use, including recently denying an application for approval of a solar power plant on Class 2 agricultural land.<sup>[7]</sup>

The AUC has had [interim information requirements \[PDF\]](#) related to agricultural land use and visual impacts since May 2, 2024. The regulations provide further clarity following the uncertainty created by the Alberta government's generation approvals pause in 2023. However, some uncertainty remains, particularly with what parameters the AUC will apply to assessing post-construction agricultural productivity monitoring.

It also remains to be seen how the AUC will assess agricultural, irrigability and visual impacts going forward. What is certain is that wind projects are now prohibited across a significant swath of land in the southwestern portion of the province. We also know that "high-quality agricultural land" and "visual impact assessment zones" comprise a significant portion of the province and that solar and wind developers can expect continued scrutiny from the AUC of their projects' siting.

## Conservation and Reclamation Amendment Regulation

Currently, financial security is not required for renewable energy operations under the *Environmental Protection and Enhancement Act* (EPEA).<sup>[8]</sup> Amendments to the *Conservation and Reclamation Regulation* anticipate a new Code of Practice, the *Code of Practice for Solar and Wind Renewable Energy Operations* (the Code). The Code will have the force of legislation once published, as would any requirements related to posting financial security.<sup>[9]</sup>

The *Conservation and Reclamation Amendment Regulation*<sup>[10]</sup> adopts the Code and creates an exemption from financial security requirements if the operator of a solar or wind project applies for registration under EPEA and provides financial security directly to the registered landowner under the terms of a surface lease. The regulations do not include any specific standards for the form of security to qualify for exemption.

Details on specific requirements regarding the form, timing and quantum of security under the Code have yet to be released, although it must be in a form prescribed by the *Conservation and Reclamation Regulation* (including cash, cheque, government bond, irrevocable letter of credit, performance bond, or any other form acceptable to the Director). Based on the Minister's policy statements, the requirements would apply to all power plants approved on or after March 1, 2024.

The amendments come into force on January 1, 2025, with no timeline provided for the release of the Code. Currently, the AUC's interim information requirements [PDF] still require applicants for new power plants to provide specific information regarding a project's reclamation security program, and the AUC requires applicants "to explain how they will ensure that sufficient funds are available at a project's end of life to cover the cost of decommissioning and reclamation."<sup>[11]</sup>

## Conclusion

With these new regulations, the Government of Alberta has largely fulfilled its stated policy objectives for 2024 in relation to renewable project development in the province. As expected, the changes impact wind projects in particular because of strict no-build buffer zones, but all power plant developers will need to be mindful of the new restrictions and requirements at an early stage in project development when selecting potential sites and negotiating surface lease agreements.

Financial security is likely to become mandatory for solar and wind operations in the near future and will need to be provided either directly to landowners or to the Government of Alberta under its Environmental Protection Security Fund. This may apply retroactively to solar and wind projects approved on or after March 1, 2024.

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[1] See Order in Council 368/2024 (December 6, 2024).

[2] The White Area (settled portion) consists of the populated central, southern and Peace River areas of Alberta. The Green Area (forested portion) includes most of northern Alberta as well as the mountain and foothills areas along the province's western boundary. Source: Government of Alberta, "Sustainable Forest Management: 2015 Facts & Statistics" [PDF], 2017.

[3] See Order in Council 171/2023 [PDF] (August 2, 2023); and Letter from the Minister of Affordability and Utilities to Alberta Utilities Commission [PDF] (February 28, 2024).

[4] See Bob Weber, "Alberta government releases no-go zone map for renewable power projects" (March 15, 2024), *CBC*.

[5] See AUC, Module A Report [PDF] (January 31, 2024).

[6] Letter from the Minister of Affordability and Utilities to Alberta Utilities Commission [PDF] (February 28, 2024).

[7] AUC Decision 28587-D01-2024 [PDF] (October 11, 2024), Westlock Solar Project.

[8] *Environmental Protection and Enhancement Act*, RSA 2000, c. E-12 (EPEA).

[9] See EPEA, ss. 38 and 137(2); and *Conservation and Reclamation Regulation*, s. 3.1.

[10] See Order in Council, 369/2024 (December 6, 2024).

[11] AUC Decision 28961-D01-2024 [PDF] (August 22, 2024), 47-Megawatt CastorWest Solar PV Plant, para. 26.