

# New Alberta renewable energy policy prioritizes agriculture, views, reclamation

March 04, 2024

Following its seven-month moratorium on new large-scale renewable energy projects, on Feb. 28, 2024, the Government of Alberta [announced changes to its renewable energy policy](#) including its intention to advance a suite of new policy measures. These new measures, which will be advanced in legislation, regulation or policy before the end of 2024, include restrictions on renewable power project development on prime agricultural land, significant buffer zones to safeguard scenic views from wind turbine obstruction, and reclamation security requirements for renewable energy projects.

## Background

In August 2023, the Alberta Government imposed a temporary halt on approvals for large renewable energy projects (see our previous articles [here](#) and [here](#)). This pause was initiated largely in response to concerns voiced by municipalities and landowners regarding the rapid proliferation of such projects in the province. Concurrently with the “pause”, the Government directed the Alberta Utilities Commission (the AUC) to conduct an inquiry and issue reports to guide the government’s updated policy approach to renewables.

The AUC’s inquiry process consisted of two separate modules and reports to the Government. Module A, focusing on land use and reclamation issues, involved the commissioning of expert reports and solicitation of feedback from stakeholders through oral and written submissions. Module B, which addresses generation supply and reliability, is still ongoing.

## Policy changes and details

In anticipation of the expiry of the Generation Approvals Pause Regulation on Feb. 29, 2024, Premier Danielle Smith and Minister of Affordability and Utilities Nathan Neudorf [announced](#) that the province intends to advance a number of changes to its policy, legislation, and regulations applicable to renewable energy projects. This announcement was accompanied by a [public letter](#) from the Minister to the AUC

specifying that these changes would be advanced “before the end of 2024” and containing “policy guidance” based on the AUC’s Module A findings.

The forthcoming policy changes include:

- **Agricultural lands:** The Government will adopt an “Agriculture First” approach that will require the AUC to prioritize agricultural uses when evaluating renewables projects proposed on agricultural lands. Notably, renewable generation developments on Class 1 and 2 lands will no longer be permitted unless proponents demonstrate compatibility with agricultural activities. The Government will also establish “tools” to ensure that native grasslands, irrigable lands and productive lands continue to be available for agricultural production.
- **Reclamation security :** The Government will require the proponents of renewable energy proponents approved on or after March 1, 2024 to post bonds or other security to cover their projects’ end-of-life reclamation costs, in an amount to be determined by Alberta Environment and Parks in consultation with Affordability and Utilities. The security will be posted directly with the Government or could be negotiated with landowners “as long as sufficient evidence is provided to the AUC”.
- **Viewscapes :** The Government will establish “buffer zones” extending at least 35 kilometres around protected areas and “pristine viewscapes” designated by the province, where wind projects will no longer be permitted. Other proposed developments within the buffer zone may require enhanced visual impact assessment by the AUC.
- **Crown lands :** The Government will establish policy and legislative tools to enable the development of renewable projects on Crown lands on a “case-by-case basis.” The Minister noted that further engagement will be necessary for any policy changes regarding renewable projects on Crown lands, with implementation expected in late 2025.
- **Municipalities :** The Government will direct the AUC to grant municipalities automatic participation rights in AUC hearings, eligibility for cost recovery, and the ability to review AUC rules on submission requirements. The AUC has also committed to clarifying its consultation requirements.
- **Transmission :** The Government expects to implement changes to the Transmission Regulation, which will be published in the coming months and formally enacted in 2025. This announcement follows the Government’s October 2023 [discussion paper](#) inviting comment on a number of potential changes to Alberta’s transmission policy; the Government’s press release noted that “Renewable projects should expect changes in how transmission costs are allocated.”

Although these policy changes have yet to be enshrined in legislation or regulation, the AUC is expected to follow the policy guidance contained in the letter.

The Minister’s letter also instructs the AUC to conduct a “proceeding or other process to consider appropriate setbacks of renewable infrastructure from neighbouring residences and other important infrastructure” and to develop rules for mandatory site visits for proposed renewable generation projects. The Minister clarified that this latter requirement is intended to enable more accurate assessment of a project’s visual impacts.

Following the Government's announcement, the AUC published [a bulletin explaining its approach](#) to processing applications following the end of the pause and made some announcements of its own. The AUC confirmed that its [interim information requirements](#) announced in September 2023 will remain in effect for all current and prospective applications following the end of the pause. It also announced that it is initiating a **stakeholder consultation on "specific topics" within its central rule governing facility applications**, including topics related to the Government's intended policy, legislative and regulatory changes regarding renewable energy projects. As part of this consultation the AUC will consider whether some or all of its interim information requirements will be incorporated permanently into its application requirements for power plant approvals. A process schedule for this consultation has not yet been set.

## Commentary

The Government's announcement sketches an outline of significant changes to the approval and regulation of renewable-energy projects in Alberta, but that outline remains to be filled in. Project proponents must wait for key details, including the amount of reclamation security that will be required, the form and timing of that security requirement and how it will be held by the Government, and the nature of the "evidence" required to establish the sufficiency of security arrangements made with a landowner. Also remaining to be determined are the AUC's new visual impact assessment requirements and the extent of the visual buffer zones, the identification of which is left largely to future Ministerial discretion to designate "pristine viewsapes."

As such, the full impact of the Government's announced policy changes on renewable energy development in Alberta remains unclear. While the Minister noted that "investments in Alberta did not waver"<sup>1</sup> during the pause and that "renewables will continue to be an important part of the generation mix," investor certainty in the renewables space, and their continued willingness to invest in Alberta renewables - particularly wind energy - will very likely depend on further announcements (including the Government's response to Module B of the AUC's inquiry) and on the details of the various "tools" that the Government intends to enact to achieve its stated objectives. Investors and industry will no doubt be very interested to see whether these changes are implemented by legislation, regulation or Government policy, and how much discretion they reserve to the AUC and to the Government itself.

The Government was clear in its press conference that its policy changes will not impact projects or facilities that have already received AUC approval. However, proponents of projects currently in the AUC's application process will be keen to learn how the forthcoming legislative, regulatory and policy changes will apply to their projects. The Minister's letter to the AUC specifies that the forthcoming reclamation security requirements will apply to all projects approved on or after March 1, 2024 - potentially indicating the Government's intention to enact retroactive legislation or regulations to address this issue - but the effective date of most of its other policy changes remains unclear.

The Government's policy changes also emphasize some differences between the regulation of renewable energy projects and other industries and may reinforce investor concerns that renewables are being singled out for special treatment. For instance, the new visual impact requirements for renewable energy projects do not apply to other potentially intrusive projects. Concerns have already been raised that a 35-km buffer

zone around Alberta’s parks and protected areas alone would effectively sterilize most of southern Alberta for wind development, but would not impact other forms of industrial development. Also, the Government’s proposed approach to reclamation security for renewable energy projects is not consistent with requirements for other types of generation or for oil and gas development in Alberta.

Whether they agree or disagree with the Government’s approach, stakeholders of all stripes may welcome the incremental certainty that this announcement provides. However, much work remains to fill in the Government’s outline and, in Minister Neudorf’s words, “set a clear and responsible path forward for renewable project development”.

For more information about the changes to Alberta’s renewable energy policy, please reach out to any of the key contacts listed below.

<sup>1</sup> Ministerial letter to AUC, page 2.

By

[Jordan Hulecki](#), [Andre Matheusik](#)

Expertise

[Climate Change](#), [Environmental](#), [Indigenous Law](#), [Municipal & Land Use Planning](#), [StartUp & Grow™](#), [Commercial Real Estate](#), [Energy - Oil & Gas](#), [Agribusiness](#), [Government & Public Sector](#), [Infrastructure](#), [Energy – Power](#)

---

## BLG | Canada’s Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

## BLG Offices

### Calgary

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

### Ottawa

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

### Vancouver

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

**Montréal**

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

**Toronto**

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.