

RECENT LEGISLATIVE AND REGULATORY DEVELOPMENTS OF INTEREST TO ENERGY LAWYERS

GAVIN FITCH, K.C.,* MICHAEL BARBERO,** MARIKA CHERKAWSKY*** & ALEX
DINGMAN****

This article provides a high-level overview of regulatory and legislative developments between June 2024 and April 2025, which may be of interest to Canadian energy lawyers. It includes discussions of recent regulatory decisions and changes to regulatory and legislative regimes impacting energy law while also highlighting several ongoing regulatory and legislative developments to watch for in the coming year. Topics of note include legislative and policy changes relating to the Impact Assessment Act, provincial legislation regarding federal incursions, the Canada Energy Regulator, and the Alberta Restructured Energy Market, among others.

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* Environmental, energy, and regulatory lawyer at McLennan Ross LLP, Calgary.

** Environmental, energy, and regulatory lawyer at McLennan Ross LLP, Calgary.

*** Environmental, energy, and regulatory lawyer at McLennan Ross LLP, Calgary.

**** Environmental, energy, and regulatory lawyer at McLennan Ross LLP, Calgary.

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INTRODUCTION

The past year saw continued evolution of the Canadian legislative and regulatory landscape pertaining to the practice of energy law, albeit against a shifting and sometimes dramatic geopolitical backdrop. This article provides a high-level overview of regulatory and legislative developments within that landscape, primarily between June 2024 and April 2025. Topics include legislative and policy changes relating to the *Impact Assessment Act*,¹ provincial legislation regarding alleged federal incursions into provincial jurisdiction, the Canada Energy Regulator (CER), and the Alberta Restructured Energy Market, among others. This article also comments on developments relevant to Indigenous law and environmental law more broadly.

¹ SC 2019, c 28, s 1 [IAA].

I. CLIMATE CHANGE AND DECARBONIZATION

A. FEDERAL FRAMEWORK FOR OIL AND GAS SECTOR EMISSIONS CAP

On 9 November 2024, the Government of Canada released the proposed *Oil and Gas Sector Greenhouse Gas Emissions Cap Regulations*.² The *Emissions Cap Regulations* are in furtherance of a national emissions cap for the oil and gas sector, aiming to align with Canada's 2030 greenhouse gas (GHG) reduction targets. Envisioned as a cap-and-trade system under the *Canadian Environmental Protection Act, 1999*,³ the proposed *Emissions Cap Regulations* would apply to upstream oil and gas facilities, including liquified natural gas and offshore operations. The proposed regime caps emissions rather than production, though the Alberta government and others argue the effect is the same.⁴

Under the draft regulations, the emissions cap for each calendar year of a compliance period (that is, every three calendar years) will be equal to 73 percent of a facility's emissions reported in 2026.⁵ Covered facilities would be subject to strict emission reporting and verification requirements, with tradeable and bankable emission allowances forming the core compliance mechanism.⁶ In addition to emissions allowances, operators with remittance obligations would be able to use a limited quantity of compliance flexibility units, including eligible offset credits and decarbonization units.⁷ Together, these two measures are intended to ensure that GHG emissions do not exceed the legal upper limit.⁸

The legal and constitutional viability of this initiative remains to be seen, and the Government of Alberta has already indicated that it views the proposed *Emissions Cap Regulations* as violating section 92A of the *Constitution Act, 1867*.⁹

B. AMENDMENTS TO THE *ENERGY EFFICIENCY REGULATIONS, 2016*

Effective 17 December 2024, the federal *Energy Efficiency Regulations, 2016*,¹⁰ enacted under the *Energy Efficiency Act*,¹¹ were amended to expand the scope of products subject to regulation and harmonize efficiency standards with those in the United States.¹² The amendments changed regulatory standards for three product categories: ice makers, metal halide lamp ballasts, and microwave ovens.

² (2024), C Gaz II, 3264 [*Emissions Cap Regulations*].

³ SC 1999, c 33 [*CEPA*].

⁴ Alberta, Environment and Protected Areas, *Alberta's Response to the Federal Oil and Gas Emissions* (Edmonton: AEPA, 2025) online (pdf): [perma.cc/L7GA-YDT7] [*Alberta's Response*].

⁵ *Emissions Cap Regulations*, *supra* note 2, s 23.

⁶ *Ibid*, ss 9–15.

⁷ *Ibid*, s 28.

⁸ *Ibid*, Part 2.

⁹ *Alberta's Response*, *supra* note 4; *Constitution Act, 1867* (UK), 30 & 31 Vict, c 3, s 92A, reprinted in RSC 1985, Appendix II, No 5.

¹⁰ SOR/2016-311.

¹¹ SC 1992, c 36.

¹² *Regulations Amending the Energy Efficiency Regulations*, SOR/2024-286.

These amendments are part of a broader federal strategy, the *2024-2026 Forward Regulatory Plan*, to reduce national carbon emissions by curtailing energy consumption in residential, commercial, and industrial sectors.¹³ These amendments are also intended to harmonize Canadian and U.S. standards, ease regulatory burdens on businesses, and promote market efficiency by eliminating less energy-efficient products from circulation within Canada.¹⁴

C. *CLEAN FUEL REGULATIONS*

The *Clean Fuel Regulations* were developed and implemented pursuant to Canada's obligations under the *Paris Agreement* and *CEPA*, and aim to reduce the lifecycle carbon intensity of fossil fuels by mandating emission reductions from production to end-use.¹⁵ The *Clean Fuel Regulations* attempt to accomplish the reduction of carbon intensity partly by establishing a compliance credit market, whereby reduction requirements can be met through three avenues: (1) carbon intensity reduction projects, (2) low-carbon fuel supply, and (3) advanced vehicle fuel supply.¹⁶

A number of changes were introduced pursuant to the *Clean Fuel Regulations* this past year.¹⁷ New regulatory mechanisms were introduced starting on 1 January 2024, including the Emission Reduction Funding Programs and the Land Use and Biodiversity Criteria for feedstock, both of which are used in compliance credit creation. In June 2024, the first Credit Market Data Report was published, showing compliance credit creation categorized according to the three compliance categories listed above.¹⁸ Finally, on 30 September 2024, the *Clean Fuel Regulations* were amended, repealing and replacing the former *Renewable Fuels Regulations*.¹⁹

D. *CLEAN ELECTRICITY REGULATIONS*

On 18 December 2024, the Government of Canada released the finalized *Clean Electricity Regulations*.²⁰ The *Clean Electricity Regulations* establish a framework aimed at achieving a net-zero electricity grid by 2035 and contribute to economy-wide net-zero emissions by 2050.²¹ The finalized *Clean Electricity Regulations* replace the draft regulations previously released in 2023 and incorporate feedback received during the initial comment period. The finalized version of the *Clean Electricity Regulations* introduces alternative

¹³ Natural Resources Canada, *Amendments to the Energy Efficiency Regulations, 2016* (Ottawa: NRC, 2 July 2025) online: [perma.cc/RSY3-ZXZH].

¹⁴ *Ibid.*

¹⁵ *Clean Fuel Regulations*, SOR/2022-140, (2022) C Gaz II, 2859.

¹⁶ *Ibid.*

¹⁷ Environment and Climate Change Canada, *Compliance with the Clean Fuel Regulations: How it Works* (Ottawa: ECCC, 3 July 2025) online: [perma.cc/W3U3-RMDS].

¹⁸ Environment and Climate Change Canada, *Clean Fuel Regulations Credit Market Report, June 2024*, Catalogue No 2024E-PDF (Ottawa: ECCC, 2024) online (pdf): [perma.cc/55YW-KL4J].

¹⁹ *Clean Fuel Regulations*, *supra* note 15, s 175.

²⁰ SOR/2024-263.

²¹ Environment and Climate Change Canada, *2030 Emissions Reduction Plan: Canada's Next Steps to Clean Air and Strong Economy*, Catalogue No 2022E-PDF (Québec: ECCC, 2022) at 7, 15, 23, 40, 74 online (pdf): [perma.cc/4JY5-76BE]. See also *Clean Electricity Regulations*, SOR/2024-263, (2024) C Gaz II, 4804.

mechanisms for achieving compliance, such as compliance credit systems, emissions trading, and revised emissions thresholds.

While these changes address many stakeholder concerns, some issues may remain unresolved. For example, Alberta has announced its intent to challenge the constitutionality of the *Clean Electricity Regulations*.²² Similarly, Saskatchewan has rejected the measures as unconstitutional.²³

E. COMPETITION ACT

On 23 December 2024, the Competition Bureau released draft guidelines²⁴ for public consultation concerning environmental claims under the *Competition Act*.²⁵ These guidelines aim to provide greater clarity on how the Bureau interprets and enforces provisions of the *Act*, particularly those prohibiting deceptive marketing practices, in the context of “green” or environmental claims.²⁶

The draft guidelines provide practical examples to illustrate permissible environmental claims and include guidance on topics such as the use of third party certifications and qualifiers such as “eco-friendly” or “carbon-neutral.” Public consultation on the draft guidelines concluded at the end of February 2025, following a stakeholder engagement process aimed at refining the Bureau’s approach. Feedback from legal practitioners, industry stakeholders, and consumer advocacy groups will presumably inform the final version of the guidelines, which are expected to be published prior to 20 June 2025 when provisions of the *Competition Act* amended under Bill C-59 are scheduled to come into force.²⁷

F. ALBERTA SOVEREIGNTY WITHIN A UNITED CANADA ACT AND THE CRITICAL INFRASTRUCTURE DEFENCE ACT

The *Alberta Sovereignty within a United Canada Act* (*Alberta Sovereignty Act*), enacted in December 2022, establishes a framework allowing Alberta’s legislature to resist federal laws deemed unconstitutional or harmful to the province.²⁸ The *Alberta Sovereignty Act* empowers the Alberta government to direct provincial entities to disregard federal initiatives that are deemed to encroach upon provincial jurisdiction, particularly with respect to natural resource management.

²² Jack Farrell, “Alberta Seeks Court Ruling on Constitutionality of Federal Clean Electricity Plan”, *The Canadian Press* (1 May 2025), online: [perma.cc/JD3P-X3J2].

²³ Government of Saskatchewan, “Saskatchewan Rejects Federal Clean Electricity Regulations” (18 December 2024), online: [perma.cc/JR6M-JS87].

²⁴ Competition Bureau Canada, *Environmental Claims and the Competition Act* (Ottawa: ISSED, 23 December 2024), online: [perma.cc/T47P-QTD7].

²⁵ RSC, 1985, c C-34.

²⁶ *Ibid*, s 74.01; Competition Bureau Canada, *supra* note 24.

²⁷ Bill C-59, *An Act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023*, 1st Sess, 44th Parl, 2024 (assented to 20 June 2024), SC 2024, c 15, cls 231–72.

²⁸ SA 2022, c A-33.8 [*Alberta Sovereignty Act*].

On 2 December 2024, Alberta's legislature invoked the *Alberta Sovereignty Act* in opposition to the federal *Emissions Cap Regulations* (see Part I.A, above), asserting that it infringes on provincial authority over non-renewable resources under section 92A of the *Constitution Act, 1867*.²⁹ Subsequently, on 19 March 2025 the Government of Alberta introduced Bill 45, proposing amendments to the *Critical Infrastructure Defence Act* to shield emissions data and infrastructure from federal oversight.³⁰ Together, the Government of Alberta's invocations of the *Alberta Sovereignty Act* and *CIDA* amendments reinforce the Province's assertion of exclusive ownership over natural resource production emissions and further escalates tensions with the federal government in relation to environmental regulation.

G. BILL 38: RED TAPE STATUTES AMENDMENT ACT, 2025

Introduced on 26 February 2025, Bill 38³¹ proposes amendments to multiple statutes across five Alberta ministries, including the complete repeal of the *Energy Diversification Act*,³² which granted the Minister authority to implement initiatives aimed at promoting economic growth and diversification in the energy sector.³³ When originally enacted in 2018, these investments included billions of dollars committed to programs that funded initiatives such as additional royalty credits issued under the Petrochemicals Diversification Program, loan guarantees and grants issued for the creation of petrochemical feedstock infrastructure, and for technology upgrading.³⁴

The Government of Alberta has justified the repeal of the *Energy Diversification Act* on the grounds that it no longer supports any current programs or initiatives, as all programs under the *Act* have either concluded or transitioned to the Alberta Petrochemicals Incentive Program (APIP).³⁵ In transitioning these programs and initiatives to the APIP, it appears that the Government of Alberta's primary means of attracting investment in Alberta's petrochemical sector will be through grant funding under APIP, which will provide up to 12 percent of a project's eligible capital cost.³⁶ Grant funding will be made available to proposed projects with a minimum capital investment of CAD\$50 million, based on eligibility criteria that include the consumption of specified feedstock or the production of value-added products used as inputs in the manufacture of petrochemical products.³⁷ Grants will be paid after the project achieves commercial operation.

²⁹ Alberta, Legislative Assembly, *Votes and Proceedings*, 31-1, No 76 (2 December 2024) at 4–6, online (pdf): [perma.cc/Z87R-HS9Y].

³⁰ Bill 45, *Critical Infrastructure Defence Amendment Act*, 2025, 1st Sess, 31st Leg, Alberta, 2025 (assented to 15 May 2025), SA 2025, c 5.

³¹ Bill 38, *Red Tape Reduction Statutes Amendment Act*, 2025, 1st Sess, 31st Leg, Alberta, 2025 (assented to 15 May 2025), SA 2025, c 15.

³² SA 2018, c E-9.6.

³³ *Ibid*, s 2.

³⁴ BLG, "Alberta 2018 Budget – What's in it For Energy?" (26 March 2018), online: [perma.cc/2CL5-8NFG].

³⁵ Government of Alberta, *Implementing Red Tape Reduction – Key Changes: Bill 38* (Edmonton: Service Alberta and Red Tape Reduction, 2025), online: [perma.cc/2629-WR95].

³⁶ Alberta Energy and Minerals, *The Alberta Petrochemicals Incentive Program: Program Guidelines Document* (Edmonton: Alberta Energy and Minerals, 3 November 2023) online (pdf): [perma.cc/F9JE-F2HC].

³⁷ *Ibid*, Table 1 at 6.

II. POWER

On 6 December 2024, the Government of Alberta announced a number of highly anticipated regulatory amendments and policy changes intended to support the “ongoing economic, orderly and efficient development of electricity generation in Alberta.”³⁸ These updates come after the expiry of the *Generation Approvals Pause Regulation*, which was in effect from 8 August 2023 to 29 February 2024, and temporarily halted the Alberta Utilities Commission (AUC) from issuing approvals for renewable power projects.³⁹

Upon lifting the pause in February 2024, the Government of Alberta implemented several requirements for renewable power projects while indicating further legislative and regulatory changes would be forthcoming.⁴⁰ As discussed below, these changes — now advanced — include the introduction of the *Electric Energy Land Use and Visual Assessment Regulation*,⁴¹ and amendments to the *Conservation and Reclamation Regulation*⁴² (with the inclusion of Schedule Column B, Code of Practice for Solar and Wind Renewable Energy Operations), AUC Rule 007,⁴³ and the *Activities Designation Regulation*.⁴⁴

A. CONSERVATION AND RECLAMATION REGULATION AND ACTIVITIES DESIGNATION REGULATION

Incoming amendments to the *Conservation and Reclamation Regulation* and the *Activities Designation Regulation* are intended to “create consistent reclamation requirements across all forms of renewable energy operations, including a mandatory reclamation security requirement.”⁴⁵ Notable amendments to the *Conservation and Reclamation Regulation* include:⁴⁶

³⁸ Government of Alberta, “Restoring Balance for Albertans” (6 December 2024), online: [perma.cc/8SP4-GVCB] [Restoring Balance for Albertans]; *AUC Inquiry Into the Ongoing Economic, Orderly and Efficient Development of Electricity Generation in Alberta – Module A*, Proceeding 28501, Alberta Utilities Commission.

³⁹ Alta Reg 108/2023 (expired).

⁴⁰ Letter from the Minister of Affordability and Utilities to Bob Heggie, Chief Executive Office of the Alberta Utilities Commission (28 February 2024), Re: Policy Guidance to the Alberta Utilities Commission, AR 7571, online: [perma.cc/9B55-NEU2]. Additionally, on 3 December 2024, the AUC announced a one-year suspension of Section 3 of AUC Rule 033: Post-approval Monitoring Requirements for Wind and Solar Power Plants for select solar power plants: see Alberta Utilities Commission, Bulletin 2024-24, “Suspension of Post-Construction Monitoring Requirements at Applicable Solar Power Plants for the 2025 Season” (Calgary: AUC, 2024), online (pdf): [perma.cc/PN2Y-PBPX].

⁴¹ Alta Reg 203/2024 [*EELUVA Regulation*].

⁴² Alta Reg 115/93, as amended by OC 369/2024.

⁴³ Alberta Utilities Commission, Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Development and Gas Utility Pipelines* (Edmonton: AUC, 2024), online (pdf): [perma.cc/KDJ2-3GLC].

⁴⁴ Alta Reg 276/2003.

⁴⁵ Alberta, Affordability and Utilities, *Summary of Policy Changes* (Edmonton: Affordability and Utilities, 2024), online (pdf): [perma.cc/3LFP-4X74].

⁴⁶ OC 369/2024.

- Incorporation of the existing *Code of Practice for Solar and Wind Renewable Energy Operations* into the regulation;⁴⁷
- The creation of consistent reclamation requirements across all forms of renewable energy operations, including a mandatory reclamation security requirement;⁴⁸ and
- An exemption from security requirements for wind and solar operators who apply for registration under the *Environmental Protection and Enhancement Act*⁴⁹ and provide security to a registered owner of the land under a surface lease.⁵⁰

B. ELECTRIC ENERGY LAND USE AND VISUAL ASSESSMENT REGULATION

The new *EELUVA Regulation*,⁵¹ made under the *Alberta Utilities Commission Act*,⁵² came into force on 6 December 2024, pursuant to Order in Council 368/2024.⁵³ The *EELUVA Regulation* is consistent with the Alberta government's "agriculture first" approach to renewable power generation and seeks to protect high-quality agricultural land, irrigable land, and valued viewsapes from the impacts of electric energy generation development.⁵⁴

The *EELUVA Regulation* applies to all applications for the construction or operation of power plants under AUC Rule 007 (including solar and wind power plants), unless one of the exemptions set out in subsection 2(2) of the *EELUVA Regulation* applies.⁵⁵ Specifically, the *EELUVA Regulation* does not apply to applications for the construction and operation of small power plants, isolated generating units, micro-generation units, power plants situated on a federal Indian reserve, or alterations to an existing power plant approval issued by the AUC.⁵⁶

⁴⁷ To be added to the *Conservation and Reclamation Regulation* as section 3.1(1)(c) (*ibid*, s 2). At the time of writing, the Code for Solar and Wind Operations has yet to be published, however, it is anticipated to have the same authority as existing legislation governing financial security obligations of non-renewable energy projects. See e.g. the *Code of Practice for Exploration Operations* and the *Code of Practice for Pits*, which set out specifics on the required form, timelines, and amount of security that must be posted by project approval holders (Alberta Environment, *Code of Practice for Exploration Operations* (Edmonton: Alberta King's Printer, 2005) online (pdf): [perma.cc/9TYG-CV9T]; Alberta Environment, *Code of Practice for Pits* (Edmonton: Alberta King's Printer, 2004) online (pdf): [perma.cc/PH7H-2H66]). Further, the security must be in a form prescribed by the *Conservation and Reclamation Regulation*, which includes cash, cheque, government bond, irrevocable letter of credit, performance bond or any other form acceptable to the Director: *Conservation and Reclamation Regulation*, *supra* note 42, s 21).

⁴⁸ To be added to the Schedule to the *Conservation and Reclamation Regulation* (*supra* note 46, s 5).

⁴⁹ RSA 2000, c E-12 [*EPEA*].

⁵⁰ To be added to the *Conservation and Reclamation Regulation* as section 17.1(e) (*supra* note 46, s 3).

⁵¹ *Supra* note 41.

⁵² SA 2007, c A-37.2 [*AUC Act*].

⁵³ OC 368/2024 (not published in Alberta Gazette at time of writing).

⁵⁴ Restoring Balance for Albertans, *supra* note 38.

⁵⁵ *EELUVA Regulation*, *supra* note 41, s 2; Alberta Utilities Commission, Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Development and Gas Utility Pipelines* (Edmonton: AUC, 2024) s 4, online (pdf): [perma.cc/KDJ2-3GLC] [Rule 007].

⁵⁶ *EELUVA Regulation*, *supra* note 41, s 2(2).

The *EELUVA Regulation* codifies certain information requirements for the construction and operation of power plants, which are intended to enhance protections for “conserving our environment, agricultural lands and beautiful viewsapes.”⁵⁷ The requirements fall within the following categories: (1) agricultural lands and productivity, (2) irrigation potential, and (3) valued viewsapes.⁵⁸

The *EELUVA Regulation* defines “high-quality agricultural land” as land rated Class 1 or 2 under the Land Suitability Rating System (LSRS),⁵⁹ or Class 3 land in designated municipalities.⁶⁰ Section 4 of the *EELUVA Regulation* requires all new applications “for the construction or operation of a wind power plant or solar power plant on privately owned, high-quality agricultural land” filed after 6 December 2024 to include an “agricultural impact assessment.”⁶¹ The agricultural impact assessment must include: “(a) details of the expected effect of the wind power plant or solar power plant on agricultural productivity, and (b) measures demonstrating that the wind power plant or solar power plant is designed to achieve coexistence with agricultural land use.”⁶² Also related to agricultural lands, section 5 of the *EELUVA Regulation* requires “[t]he owner or operator of a wind power plant or solar power plant situated on privately owned high-quality agricultural land” to report to the AUC on agricultural productivity within 36 months of the start of operations.⁶³

The Government of Alberta also released a map identifying visual impact assessment zones, buffer zones, LSRS Class 2 and Class 3H lands, White Area, and unimpacted areas that are referenced in the Schedules of the *EELUVA Regulation*.⁶⁴ Section 6 of the *EELUVA Regulation* provides that “[i]f required by the [AUC], a person applying for the construction or operation of a power plant within the White Area [of the Green and White Map⁶⁵] must submit an irrigability assessment as part of the application.”⁶⁶

In conjunction with the *EELUVA Regulation*, the Government of Alberta released a map identifying the location of “buffer zones” and “visual impact assessment zones” referenced

⁵⁷ Restoring Balance for Albertans, *supra* note 38.

⁵⁸ Alberta Utilities Commission, Bulletin 2024-25, “Changes to Interim Information Requirements for Power Plant Applications” (Calgary: AUC, 2024) online: [perma.cc/2M2G-BJMA] [Bulletin 2024-25].

⁵⁹ *EELUVA Regulation*, *supra* note 41, s 1(f)(i). The “Land Suitability Rating System” is defined as “the system for evaluating land suitability based on soil, landscape and climate factors, as described in *Land Suitability Rating System for Agricultural Crops: 1. Spring-seeded small grains*, published by Agriculture and Agri-Food Canada in 1995 and amended from time to time” (*ibid*, s 1(h)). Alberta does not have any LSRS Class 1 lands, largely due to climate factors: see Alberta, Agriculture and Forestry, *Land Suitability Rating System (LSRS)* (Edmonton: Agriculture and Forestry, 2017) online (pdf): [perma.cc/35DW-QJ9U].

⁶⁰ *EELUVA Regulation*, *supra* note 41, s 1(f). For a list of designated municipalities see *ibid* at Schedule 1.

⁶¹ *Ibid*, s 6.

⁶² *Ibid*, s 4(2).

⁶³ *Ibid*, s 5; see also Bulletin 2024-25, *supra* note 58.

⁶⁴ Alberta, Affordability and Utilities, *Pristine Viewsapes and Visual Impact Assessment Zones*, No 24-017 (Edmonton: Government of Alberta, 2024) online: [perma.cc/4UA7-AGSP] [Zone Map].

⁶⁵ *EELUVA Regulation*, *supra* note 41, s 1(m); see also Alberta, Agriculture, Forestry and Rural Economic Development, *Green Area and White Area with National Parks and Forest Management Units* (Edmonton: AFRED, 18 July 2022) online: [perma.cc/W8AZ-FFXP].

⁶⁶ *EELUVA Regulation*, *supra* note 41, s 6.

in the *EELUVA Regulation*.⁶⁷ The map accompanies a list of legal land descriptions in Schedule 2 of designated “buffer zones” and “visual impact assessment zones.”⁶⁸ The stated purpose of establishing these zones is to prevent projects from impacting viewscapes.

Section 8 of the *EELUVA Regulation* sets out a requirement for all types of power plants to submit a visual impact assessment if they are located within a buffer zone or a visual impact assessment zone.⁶⁹ Subsection 8(3) of the *EELUVA Regulation* provides that the AUC “shall not accept any applications under AUC Rule 007 for the construction or operation of a wind power plant in a buffer zone.”⁷⁰ Regarding the visual impact assessment, this must include: “(a) an evaluation of the anticipated visual impacts on the buffer zone or visual impact assessment zone, (b) visual simulations from key vantage points illustrating the potential visual impact of the proposed power plant, and (c) proposed mitigation measures to minimize or offset any adverse visual effects on the buffer zone or visual impact assessment zone.”⁷¹

In response to the *EELUVA Regulation*, on 18 December 2024 the AUC released Bulletin 2024-25 announcing changes to the interim information requirements for power plant applications that will apply to all new applications filed after 6 December 2024.⁷² Bulletin 2024-25 provides initial direction on how the AUC will apply the *EELUVA Regulation* and includes an appendix setting out the revised information requirements. The updated information requirements relate to: (1) the determination of high-quality agricultural land, (2) irrigation potential, (3) professional expertise, and (4) agricultural impact assessments.⁷³ All existing interim information requirements related to municipal land use and reclamation security set out in Bulletin 2024-08⁷⁴ remain in force and are included in the appendix of Bulletin 2024-25.

C. BLACKLINE RULE 007

On 24 March 2025, the AUC issued a draft blackline version of Rule 007, which was open for written feedback until 23 May 2025.⁷⁵ The draft blackline version of Rule 007

⁶⁷ *Ibid*, s 7; *Zone Map*, *supra* note 64. Note, this map also overlaps LSRS Class 2 and Class 3H lands, White Areas, and unimpacted areas.

⁶⁸ *EELUVA Regulation*, *supra* note 41, Schedules 1–2.

⁶⁹ *Ibid*, s 8. The requirement for a visual impact assessment only applies to new applications filed after 6 December 2024 for power plants in applicable buffer and visual impact assessment zones as identified in the *Zone Map* (*supra* note 64). However, as noted above, Bulletin 2024-25 states that the AUC will apply the requirement for a visual impact assessment to all proceedings currently before it for power plants within the zones defined in the regulation (*supra* note 58 at 2).

⁷⁰ *EELUVA Regulation*, *supra* note 41, s 8(3).

⁷¹ *Ibid*, s 8(2).

⁷² Bulletin 2024-25, *supra* note 58. On 6 September 2023, the AUC initially introduced new, interim Rule 007 information requirements relating to agricultural land, viewscapes, reclamation security, and land use planning, which included a request for evidence on impacts to high-quality agricultural land: see Alberta Utilities Commission, Bulletin 2023-05, “Interim Rule 007 Information Requirements” (Calgary: AUC, 2023), online (pdf): [perma.cc/4NDK-MDSW].

⁷³ Bulletin 2024-25, *supra* note 58 at 1.

⁷⁴ Alberta Utilities Commission, Bulletin 2024-08, “AUC Consultation on Rule 007 and Enhanced Interim Information Requirements” (Calgary: AUC, 2024) at 4–5, online (pdf): [perma.cc/W7EM-346Z].

⁷⁵ Alberta Utilities Commission, Rule 007: *Facility Applications* (Draft) (Edmonton: AUC, 2024), online (pdf): [perma.cc/6ALU-6R2R] [Draft Rule 007]; Alberta Utilities Commission, Bulletin 2025-02, “Changes Proposed to Rule 007: Facility Applications – Available for Written Feedback Until May 23, 2025” (24 March 2025), online (pdf): [perma.cc/MP2W-B4WH].

incorporates feedback received through written and oral consultation conducted by the AUC from May to September 2024, consideration of the *EELUVA Regulation*, and the interim information requirements set out in Bulletin 2024-25.

Another notable change proposed in the draft blackline version of Rule 007 relates to the time extension process for power plants and energy storage facilities. Specifically, the AUC proposes to implement a five-year period to finish construction, after which, if construction has not been completed, a new application must be filed. Further, the draft blackline version of Rule 007 provides that “[t]ime extension requests of short duration will only be available in limited and exceptional circumstances (e.g., a short extension request for projects that have already substantially completed construction and are facing a minor delay).”⁷⁶

D. RULE 033 SUSPENSION

On 21 February 2025, the AUC issued amended Bulletin 2024-24,⁷⁷ which temporarily suspended post-construction monitoring obligations contained in section 3 of Rule 033,⁷⁸ for approval holders of operational solar power plants that are not located within 1,000 meters of a named lake or a wetland-based Important Bird Area. The 1,000-meter setback aligned with the standards set out in the *Wildlife Directive for Alberta Solar Energy Projects*.⁷⁹ This suspension came into effect on 1 January 2025 and will expire on 31 December 2025. The suspension does not apply to wind power plants.

Bulletin 2024-24 states that Alberta Environment and Protected Areas (AEPA) requested the temporary suspension “to allow it to conduct a review of the province-wide post-construction wildlife mortality data and assess the risk to wildlife at solar power plants.”⁸⁰ AEPA’s request for this temporary suspension appears to be motivated by findings that, since the requirement for post-construction mortality surveys was introduced in 2016, at least for projects located outside the 1,000-meter setback, “some wildlife mortality has occurred at solar power plants but not to the level that has required AEPA to direct additional mitigations.”⁸¹

Following its analysis, AEPA intends to “identify recommended changes or updates to the solar directives, survey protocols, processes or requirements, and engage with the AUC on these recommendations. This includes whether the current data available provides enough evidence to assess the conservation value of mortality surveys, assessing the risk solar power

⁷⁶ Draft Rule 007, *supra* note 75, ss 5.1, 10.7.1

⁷⁷ Alberta Utilities Commission, Bulletin 2024-24, “Suspension of Post-Construction Monitoring Requirements at Applicable Solar Power Plants for the 2025 Season” (Calgary: AUC, 2024) at 1, online (pdf): [perma.cc/66TR-QPH5] [Bulletin 2024-24].

⁷⁸ Alberta Utilities Commission, Rule 033: *Post-Approval Monitoring Requirements for Wind and Solar Power Plants* (Edmonton: AUC, 2019), online: [perma.cc/M7GN-R4A2].

⁷⁹ Alberta, Environment and Parks, *Wildlife Directive for Alberta Solar Projects* (Directive), No 5 (Edmonton: AEP, 2017) online (pdf): [perma.cc/B7WW-U78B].

⁸⁰ Bulletin 2024-24, *supra* note 77 at 1.

⁸¹ *Ibid.*

plants present to wildlife populations in Alberta and potentially identifying adjustments to make the surveys more effective.”⁸²

The temporary suspension does not relieve approval holders for suspended facilities from their obligation to complete mortality surveys for the full time period specified in their approvals, and only defers the obligation to conduct post-construction surveys for the 2025 season. Further, during the suspension period, approval holders are still obligated to report any discovery of an “unusual mortality event”⁸³ and discoveries of mortalities of “Threatened” or “Endangered”⁸⁴ species at a solar facility.⁸⁵

E. OFFSHORE RENEWABLE ENERGY

Natural Resources Canada leads the Offshore Renewable Energy Regulations (ORER) Initiative, which is focused on developing “modern safety and environmental protection regulations that will apply to site assessment, construction, operation and decommissioning and abandonment activities related to renewable energy projects and power lines throughout Canada’s offshore.”⁸⁶

Phase 1 of the ORER Initiative focused on developing regulations under the *Canadian Energy Regulator Act*.⁸⁷ On 16 December 2024, the *Canada Offshore Renewable Energy Regulations* came into effect.⁸⁸ The *Canada Offshore Renewable Energy Regulations* operationalize Part 5 of the *CER Act* “by establishing comprehensive requirements respecting work and activities related to [offshore renewable energy] projects and offshore power lines for the purposes of safety, security, and environmental protection.”⁸⁹ The *Canada Offshore Renewable Energy Regulations* will apply to offshore renewable energy projects and offshore power lines in Canada’s federally regulated offshore areas.

Phase 2 of the ORER Initiative is focused on the development of coordinating regulations under the *Canada-Nova Scotia Petroleum Resources Accord Implementation Act*⁹⁰ and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*⁹¹ (together, the Accord Acts). The proposed regulations under the Accord Acts follow amendments to the

⁸² *Ibid.*

⁸³ *Ibid* at 2:

An unusual mortality event means 10 or more deceased individuals (any combination of birds, mammals, amphibians or reptiles), found at any one time within an 800-metre radius of each other, within and immediately adjacent to the fenceline of a solar facility. If an unusual mortality event is discovered by any personnel, a qualified wildlife biologist should be contacted immediately to assist with data collection, as set out under Section 2.2.2 of the *Post-Construction Survey Protocols for Wind and Solar Energy Projects*.

⁸⁴ For species listed as “Threatened” or “Endangered” see *Wildlife Regulation*, Alta Reg 143/1997, Schedule 6.

⁸⁵ Bulletin 2024-24, *supra* note 77 at 2.

⁸⁶ Natural Resources Canada, *The Offshore Renewable Energy Regulations Initiative* (Ottawa: NRC, 2025) online: [perma.cc/3L3X-DL7B].

⁸⁷ *Canadian Energy Regulator Act*, SC 2019, c 28, s 10 [*CER Act*].

⁸⁸ *Canada Offshore Renewable Energy Regulations*, SOR/2024-272.

⁸⁹ *Canada Offshore Renewable Energy Regulations*, (2024) C Gaz I, online (pdf): [perma.cc/8M2N-PLRV].

⁹⁰ SC 1988, c 28.

⁹¹ SC 1987, c 3.

Accord Acts previously passed pursuant to Bill C-49, which expanded the mandate of the two Atlantic offshore energy regulators⁹² to include offshore renewable energy. Additionally, Bill C-49 limited the duration of petroleum discovery licences and established new authorities to support the Government of Canada's marine conservation agenda.⁹³ The proposed regulations under the Accord Acts will align with the *Canada Offshore Renewable Regulations* and are expected to be pre-published in Part I of the Canada Gazette in Spring 2025 for public comment.

F. UTILITIES AFFORDABILITY STATUTES AMENDMENT ACT

The *Utilities Affordability Statutes Amendment Act, 2024* was proclaimed on 20 June 2024.⁹⁴ The *UASA Act* introduced amendments to several existing provincial statutes, including:

- *Alberta Utilities Commission Act*;⁹⁵
- *Electric Utilities Act*;⁹⁶
- *Gas Utilities Act*;⁹⁷
- *Government Organization Act*;⁹⁸
- *Municipal Government Act*;⁹⁹ and
- *Regulated Rate Option Stability Act*.¹⁰⁰

The Government of Alberta stated that the purpose of the *UASA Act* is to “promote long-term affordability and predictability for utility bills by prohibiting the use of variable rates when calculating municipalities’ local access fees.”¹⁰¹

⁹² The Canada-Nova Scotia Offshore Petroleum Board becomes the Canada-Nova Scotia Offshore Energy Regulator and the Canada-Newfoundland and Labrador Offshore Petroleum Board becomes the Canada-Newfoundland and Labrador Offshore Energy Regulator: Bill C-49, *An Act to amend the Canada-Newfoundland and Labrador Atlantic Accord Implementation Act and the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and to make consequential amendments to other Acts*, 1st Sess, 44th Parl, 2024 (assented to 3 October 2024), SC 2024, c 20.

⁹³ *Ibid* at Summary, ss (c), (f), (l).

⁹⁴ SA 2024, c 8 [*UASA Act*].

⁹⁵ *AUC Act*, *supra* note 52.

⁹⁶ SA 2003, c E-5.1 [*EUA*].

⁹⁷ RSA 2000, c G-5 [*GUA*].

⁹⁸ RSA 2000, c G-10.

⁹⁹ RSA 2000, c M-26 [*MGA*].

¹⁰⁰ SA 2017, c R-13.5.

¹⁰¹ Government of Alberta, News Release “Making Utility Bills More Affordable” (22 April 2024), online: [perma.cc/GD6P-PBAP]. Local access fees are fees charged by the municipality to the utility distributor — those fees are ultimately passed onto customers by the utility distributor (*ibid*).

Section 6 of the *UASA Act* replaces the *Regulated Rate Option Stability Act* with the *Rate of Last Resort Stability Act*.¹⁰² The Government of Alberta stated that the purpose of the name change was to encourage existing Regulated Rate Option customers to switch to competitive contracts;¹⁰³ however, it remains unclear at this time how many ratepayers will switch to retail contracts.¹⁰⁴

The *UASA Act* also introduced amendments to the *MGA*, the *EUA*, and the *GUA* related to electric and natural gas franchise agreements.¹⁰⁵ These amendments address the AUC's oversight of franchise agreements made under section 45 of the *MGA* and how fees are to be calculated.

Pursuant to the new section 45.01 of the *MGA*, franchise agreements made under section 45 of the *MGA* are prohibited from providing for the payment of fees that are "calculated, in whole or in part, using ... a price per kilowatt hour of electric power ... or ... a price per gigajoule of fuel that varies periodically according to the market price."¹⁰⁶ The *UASA Act* standardizes how municipalities and regional service commissions are allowed to calculate franchise fees on electricity bills.

Section 139 of the *EUA* now requires AUC approval of all electric distribution franchise agreements between a municipality and a corporation controlled by the municipality or a subsidiary of the municipality.¹⁰⁷ Section 139(7) of the *EUA* provides that, without AUC approval, existing franchise agreements between municipalities and subsidiaries terminate 270 days from the date the *UASA Act* was proclaimed (that is, 17 March 2025).¹⁰⁸ Similarly, amendments to section 49 of the *GUA* provide that a prior privilege or franchise granted by a municipality to an owner of a gas utility continues in effect until the date of approval by the AUC or, in the absence of that, such grant is terminated on 17 March 2025.¹⁰⁹

On 10 July 2024, the AUC issued Bulletin 2024-12, which outlines the AUC's process for approving franchise agreements and franchise fee approvals affected by the proclamation of the *UASA Act*.¹¹⁰ The AUC has developed a checklist for use in relation to an expedited process available where a municipality has an unchanged, existing natural gas franchise agreement previously approved by the AUC.¹¹¹ Bulletin 2024-12 states the expedited process

¹⁰² *Rate of Last Resort Stability Act*, SA 2017, c R-4.5; *UASA Act*, *supra* note 94, s 6. The *UASA Act* also amends the *Government Organization Act*, *Regulated Rate Option Stability Act*, *EUA*, and *AUC Act* to substitute "Regulated Rate Option" with "Rate of Last Resort" (*supra* note 94).

¹⁰³ Government of Alberta, News Release, "Making Electricity More Affordable" (18 April 2024), online: [perma.cc/Q4KD-ALYP].

¹⁰⁴ As of December 2024, approximately 24 percent of residential customers in Alberta are on the Regulated Rate Option, down only 2 percent from 26 percent as of December 2023 (Market Surveillance Administrator, "MSA Retail Statistics" (2 July 2025) at sheet 4, online: [perma.cc/RK7E-AMR2]).

¹⁰⁵ *UASA Act*, *supra* note 94, ss 2(8), 3(2), 5(3).

¹⁰⁶ *Ibid*, s 5(3); *MGA*, *supra* note 99, s 45.01.

¹⁰⁷ A corporation is controlled by a municipality if the test set out in the *MGA* is met (*MGA*, *supra* note 99, s 1(2)).

¹⁰⁸ *UASA Act*, *supra* note 94, s 2(8); *EUA*, *supra* note 96, s 139(7).

¹⁰⁹ *UASA Act*, *supra* note 94, s 3(2); *GUA*, *supra* note 97, s 49(4)–49(5).

¹¹⁰ Alberta Utilities Commission, Bulletin 2024-12, "Process for Franchise Agreement and Franchise Fee Approvals Under New Legislation" (Calgary: AUC, 2024), online (pdf): [perma.cc/8ESK-293L] [Bulletin 2024-12].

¹¹¹ *Ibid* at 2.

is not available for natural gas franchise agreements that are being changed, new agreements, agreements that have been in effect for more than 20 years without AUC consideration, or any agreement that continues under section 47(1) of the *MGA*.¹¹² Further, Bulletin 2024-12 describes the existing streamlined process available when a municipality has an electric or natural gas franchise agreement based on an AUC-approved template with a specific utility provider.¹¹³ The AUC set an application filing deadline of 4 December 2024 for franchise agreements that are ineligible for the expedited or streamlined processes to ensure there is enough time for the AUC to review and approve these agreements prior to 17 March 2025.

G. RESTRUCTURED ENERGY MARKET RECOMMENDATIONS

Over the past few years, the Government of Alberta has considered several policy options to modernize the electricity framework in Alberta (for example, see the October 2023 Green Paper discussing potential changes in respect of transmission policy).¹¹⁴ In March 2024, the Minister of Affordability and Utilities (the Minister) announced interim market measures to address concerns with generators engaging in economic and physical withholding practices that increase consumer energy costs and signalled future market reforms that would promote grid reliability and affordability.¹¹⁵ At the same time, the Minister announced the public release of Alberta Electric System Operator (AESO) and Market Surveillance Administrator reports¹¹⁶ which, among other things, recommended that the government implement a Restructured Energy Market (REM) to achieve “stronger incentives for dispatchable generation, lessen the impacts of market power, and provide long-term signals for investment to promote grid reliability within the province.”¹¹⁷ Most recently, the Minister tabled Bill 52, *Energy and Utilities Statutes Amendment Act, 2025*, the first legislative tool proposed to implement the REM.¹¹⁸ Below is a brief history leading up to Bill 52, followed by a brief summary of some of the key amendments proposed in Bill 52.

In July 2024, the Government of Alberta provided direction to AESO in respect of key details regarding REM design elements and forthcoming changes to transmission policy.¹¹⁹ Specifically, the July direction letter required AESO to advance the REM design to include: a mandatory day-ahead market, market-based pricing with market power mitigation

¹¹² *Ibid*; *MGA*, *supra* note 99, s 47(1) (allowing for the continuation of agreements that are not renewed by parties).

¹¹³ Bulletin 2024-12, *supra* note 110 at 2 (specific utility providers are Apex Utilities Inc, ATCO Electric Ltd, ATCO Gas and Pipelines Ltd, and FortisAlberta Inc).

¹¹⁴ Alberta, Affordability and Utilities, *Transmission Policy Review: Delivering the Electricity of Tomorrow* (Edmonton: Affordability and Utilities, 23 October 2023) online (pdf): [perma.cc/WS4B-DESL].

¹¹⁵ On 11 March 2024, the Minister announced the interim *Market Power Mitigation Regulation* (Alta Reg 43/2024) and the *Supply Cushion Regulation* (Alta Reg 42/2024).

¹¹⁶ Market Surveillance Administrator, *Confidential Advice to Support More Effective Competition in the Electricity Market: Interim Action and an Enhanced Energy Market for Alberta* (Alberta: MSA, 21 December 2023), online (pdf): [perma.cc/8LYN-34L9]; Alberta Electric System Operator, *Alberta's Restructured Energy Market: AESO Recommendation to the Minister of Affordability and Utilities* (Edmonton: AESO, 2024), online (pdf): [perma.cc/H72D-L3ZP] [*AESO Recommendation*].

¹¹⁷ *AESO Recommendations*, *supra* note 116 at 4.

¹¹⁸ Bill 52, *Energy and Utilities Statutes Amendment Act, 2025*, 1st Sess, 31st Leg, Alberta, 2025 [Bill 52].

¹¹⁹ Letter from the Minister of Affordability and Utilities to Mike Law, President and CEO of the AESO (3 July 2023), *Direction re REM, Cost Allocation, and Optimal Transmission Planning*, AR8420, online (pdf): [perma.cc/D9RL-57DJ].

measures, a province-wide uniform price, shorter settlement intervals, a review of the price floor and ceiling, and “Security Constrained Economic Dispatch” with co-optimization of energy and ancillary services.

On 10 December 2024, the Minister of Affordability and Utilities issued a direction letter to AESO outlining the government’s decisions regarding certain key electricity market, transmission policy, and regulatory changes.¹²⁰ While the directions largely align with industry expectations and provide further clarity in respect of previous announcements, they also introduced several important new elements. Notably, the government indicated it intends to suspend regulatory oversight during the initial development of the Independent System Operator (ISO) Rules for the REM, allowing the REM to be implemented by the AESO without oversight by the AUC. Similarly, the AESO was directed to consult and implement the transmission policy changes “with a view to expeditious implementation.”¹²¹

On 13 December 2024, the AESO released a High-Level Design document that provides more details on the current status of the REM design.¹²² The deadline to provide feedback on the high-level design document was from 17 January 2025. Detailed consultation on the REM design commenced in February 2025, with ISO Rule development scheduled to occur June to September 2025. The AESO has indicated that a September completion for the REM ISO Rules will allow the rules to be “in effect” under yet-to-be enacted legislation by 1 January 2026.¹²³

On 10 April 2025, Bill 52 was introduced in the legislature. Bill 52 proposes a series of amendments to Alberta’s *EUA*, *Gas Distribution Act*, *GUA*, *Hydro and Electric Energy Act*, and *Petroleum Marketing Act*.¹²⁴ The proposed amendments reflect the legislative changes proposed by the AESO in its original recommendation report to the Minister in early 2024¹²⁵ and include provisions to enable the implementation of the REM, and modified electricity transmission planning and management in Alberta, and to permit hydrogen-blended consumer natural gas.¹²⁶ If passed, Bill 52 would replace the current real-time power pool with both a day-ahead market¹²⁷ and a real-time market,¹²⁸ expand the definition and procurement of ancillary services,¹²⁹ impose new duties on the AESO to prioritize cost and

¹²⁰ Letter from the Minister of Affordability and Utilities to Aaron Engen, President and CEO of the AESO (10 December 2024), REM and Transmission Policy Update, online (pdf): [perma.cc/2PB3-EDF7].

¹²¹ *Ibid* at 3.

¹²² Alberta Electric System Operator, *Restructured Energy Market High-Level Design* (Calgary: AESO, 13 December 2024), online (pdf): [perma.cc/6AND-89VV].

¹²³ Alberta Electric System Operator, *Restructured Energy Market High-Level Design Update* (Calgary, AESO: 22 May 2025) at 5, online (pdf): [perma.cc/892W-LJTR].

¹²⁴ Bill 52, *supra* note 118; *EUA*, *supra* note 96; *Gas Distribution Act*, RSA 2000, c G-3; *GUA*, *supra* note 97; *Hydro and Electric Energy Act*, RSA 2000, c H-16; *Petroleum Marketing Act*, RSA 2000, c P-10.

¹²⁵ *AESO Recommendation*, *supra* note 116 at 38–39.

¹²⁶ Bill 52, *supra* note 118, cls 2–3. Includes proposed amendments to the *Gas Distribution Act* (RSA 2000, c G-3) and the proposed addition of ss 48.2–48.4 to the *Gas Utilities Act* (*GUA*, *supra* note 97).

¹²⁷ The AESO announced the decision not to proceed with a day-ahead commitment market and a day-ahead energy scheduling market during consultation on the REM in April 2025 (see Alberta Electric System Operator, *AESO REM DFS - Week 3 Presentation (Posted April 10 2025)* (REM Design Finalization Week 3 Materials) (Calgary: AESO, 2025), online: [perma.cc/SNJ2-NYEV]). However, the amendments proposed by Bill 52 will facilitate enhancements to the day-ahead reliability market and the development of other day-ahead products.

¹²⁸ Bill 52, *supra* note 118, cls 1(2)(b), 1(2)(f), 1(2)(h).

¹²⁹ *Ibid*, cl 1(6).

manage transmission constraints through the dispatch and price of electricity,¹³⁰ and create new powers for the Minister to enact regulations and to legislate ISO rules to implement the REM.¹³¹ Further, the amendments provide the statutory authority required to implement the REM through new or amended regulations and ISO rules on an expedited timeline.¹³² At the time of writing, Bill 52 awaits second and third reading.

H. AMENDMENTS TO *RURAL UTILITIES REGULATION*

Amendments to the *Rural Utilities Regulation* came into force on 10 December 2024.¹³³ The *Rural Utilities Regulation*, under the *Rural Utilities Act*,¹³⁴ sets out operational requirements for a rural utility association, including reserve requirements, standard by-laws for all associations, requirements for associations pursuing secondary objects, rules for associations intending to amalgamate, and the provisions concerning one rural electrification association purchasing another. Among the amendments is the addition of section 14.1: “Sale of works to another rural electrification association.” This new section stipulates that a selling association may sell its works to a purchasing association if they enter into a written agreement that complies with the section, the agreement is approved in accordance with the provision, and the selling association makes the disclosures required by the provision.¹³⁵ The section also includes provisions in relation to money being transferred and that members of the selling association can remain or become members of the purchasing association.¹³⁶

I. *CRYPTOCURRENCY POWER REGULATION*

On 28 June 2024, British Columbia enacted the *Cryptocurrency Power Regulation*¹³⁷ under the newly granted regulation-making power in section 21.1 of its *Utilities Commission Act*.¹³⁸ Under the *Cryptocurrency Power Regulation*, the British Columbia Hydro and Power Authority (the Authority) is prohibited from supplying electricity to new high-voltage cryptocurrency projects (requiring 60 kV or higher) and new low-voltage projects (requesting at least 2.5 megawatts of power through a 12.5 kV connection or at least 5 megawatts through a 25 kV connection) for a period of 18 months.¹³⁹ This prohibition applies to projects that had not entered into facilities study agreements or made design deposits to the Authority before 28 December 2022.

The *Cryptocurrency Power Regulation* represents the resolution of questions dating back to December 2022 surrounding the extent to which the province could regulate new electricity connections for cryptocurrency mining projects.¹⁴⁰ It is expected that other jurisdictions across Canada will continue to address these questions in the near future, as provinces and

¹³⁰ *Ibid*, cls 1(5), 1(7), 1(13), 1(15).

¹³¹ *Ibid*, cls 1(17)–(19).

¹³² *Ibid*, cl 1(10).

¹³³ Alta Reg 151/2000.

¹³⁴ RSA 2000, c R-21.

¹³⁵ *Rural Utilities Regulation*, *supra* note 133, s 14.1(2).

¹³⁶ *Ibid*, ss 14.1(4), 14.1(9).

¹³⁷ BC Reg 163/2024.

¹³⁸ RSBC 1996, c 473.

¹³⁹ *Cryptocurrency Power Regulation*, *supra* note 137, s 2.

¹⁴⁰ See *Confifex Timber Inc v British Columbia (Lieutenant Governor in Council)*, 2024 BCSC 177.

territories move forward in balancing energy transition goals against cryptocurrency mining initiatives. It is further expected that similar issues may need to be addressed in other rapidly developing energy-intensive industries, such as the recent expansion of the artificial intelligence market and the corresponding growth in data centre operations.

III. OIL AND GAS

A. ALBERTA – LIABILITY MANAGEMENT FRAMEWORK

The implementation of the Alberta Energy Regulator's (AER) Liability Management Framework (LMF) marks a significant evolution in Alberta's approach to managing the financial and environmental responsibilities of oil and gas operators.¹⁴¹ Revised *Directives 001, 011, 068, and 088* (the Directives)¹⁴² are now in effect as of 7 February 2025, and with these new Directives, the Regulator has rescinded *Directive 006: Licensee Liability Rating Program*, *Directive 024: Large Facility Liability Management Program*, and *Directive 075: Oilfield Waste Liability (OWL) Program*. Further information can be found in AER Bulletin 2025-04.¹⁴³

Three of the Directives have been revised to include new sections specifically outlining information that will be made publicly available through liability management reporting, including particulars related to licensees' estimated liability, security held, and certain financial and reserves information.¹⁴⁴ These changes suggest more transparent AER reporting under the revised LMF and mark a departure from the broad confidentiality clauses in former versions of the *Oil and Gas Conservation Rules*¹⁴⁵ and the *Pipeline Rules*¹⁴⁶ dealing with the release of licensees' financial and reserves information.

Directive 001 establishes detailed requirements for conducting and submitting Site-Specific Liability Assessments (SSLAs) to the AER. SSLAs are used to estimate the costs associated with suspending, abandoning, remediating, and reclaiming an oil and gas site. While the revised *Directive 001* continues to outline the requirements and procedure for submitting SSLAs, it no longer includes methods for calculating estimated liability, nor does it prescribe criteria for determining when SSLAs are required.¹⁴⁷

¹⁴¹ Government of Alberta, *Liability Management Framework* (Edmonton: Government of Alberta, July 2020), online (pdf): [perma.cc/E2FW-3RSE].

¹⁴² Alberta Energy Regulator, *Directive 001: Requirements for Site-Specific Liability Assessments* (Calgary: AER, 2025), online (pdf): [perma.cc/K68T-C3D2] [*Directive 001*]; Alberta Energy Regulator, *Directive 011: Estimated Liability* (Calgary: AER, 2025), online (pdf): [perma.cc/3QRN-3VBL] [*Directive 011*]; Alberta Energy Regulator, *Directive 068: Security Deposits* (Calgary: AER, 2025), online (pdf): [perma.cc/AR99-4CWA] [*Directive 068*]; Alberta Energy Regulator, *Directive 088: Licensee Life-Cycle Management* (Calgary: AER, 2025), online (pdf): [perma.cc/Z9CQ-KDXC] [*Directive 088*].

¹⁴³ Alberta Energy Regulator, Bulletin 2025-04, "Directive Updates Related to Liability Management Framework" (Calgary: AER, 2025), online (pdf): [perma.cc/TG9B-6372].

¹⁴⁴ *Directive 011*, *supra* note 142, s 10; *Directive 068*, *supra* note 142, s 9; *Directive 088*, *supra* note 142, s 6.

¹⁴⁵ Alta Reg 151/1971 [*OGCR*].

¹⁴⁶ *Pipeline Rules*, Alta Reg 125/2023.

¹⁴⁷ *Directive 001*, *supra* note 142.

The revised *Directive 011* now includes the definition of “estimated liability,” methods for estimating regional costs versus costs determined by SSLA, when an SSLA is required, the means of reducing estimated liability through reporting, a description of the Conditional Adjustment of Reclamation Liability Program (relocated from *Directive 088* and *Manual 023*), and the means of calculating orphan fund levies using licensee estimated liability.¹⁴⁸ With the consolidation under this Directive of provisions for calculating liabilities that previously came from a number of different directives, it is anticipated that *Directive 011* will assume increased importance under the new LMF.

The *Directive 068* revisions update security deposit requirements under the LMF. This Directive remains focused on security requirements for oil and gas operations and now incorporates many provisions that were previously outlined in *Directives 075, 088*, and the *OGCR* so that all security requirements are consolidated into one directive.¹⁴⁹

Directive 088 received very minor changes, principally related to removing calculations now set out in the revised *Directive 011*.¹⁵⁰ However, one noteworthy change includes the ability to combine oilfield waste management approvals with well and facility transfer applications, which may reduce the need for multiple applications by licensees.¹⁵¹

B. REPEAL AND REPLACEMENT OF NATIONAL ENERGY BOARD ACT REGULATIONS

On 14 December 2024, the CER proposed a broad overhaul of regulatory instruments governing energy exports, imports, and infrastructure approvals.¹⁵² The Government of Canada has proposed the replacement of National Energy Board regulations with five new *CER Act* regulations covering export applications, import and export orders, international power lines, reporting obligations, and toll information.¹⁵³ These reforms largely consolidate and streamline existing rules and align them under the relatively recent *CER Act*, which replaced the previous *National Energy Board Act*¹⁵⁴ in August 2019.

The proposed *Export Applications (Licences and Permits) Regulations* consolidate and replace provisions from multiple *NEB Act* regulations governing the export of oil, gas, and electricity.¹⁵⁵ The proposed *Export and Import (Orders, Licences and Permits) Regulations* combine sections of the former *NEB Act* regulations related to export and import reporting as well as toll information.¹⁵⁶ By integrating these provisions, the CER seeks to simplify

¹⁴⁸ Ibid, ss 3, 5, 6, 6.1, 7, 7.2, 9. For a description of the changes to this Directive see also *Directive 011*, *supra* note 142, s 1.3.

¹⁴⁹ For a description of the changes to this Directive see *Directive 068*, *supra* note 142, s 1.3.

¹⁵⁰ For a description of the changes to this Directive see *Directive 088*, *supra* note 142, s 1.2.

¹⁵¹ Ibid, s 5.

¹⁵² Canada Energy Regulator, *Export and Import Regulatory Framework – Comment Period for Proposed Regulations*, File 2881202 (Ottawa: CER, 2024) online: [perma.cc/PY7Y-B644].

¹⁵³ *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, SC 2019, c 28 [*CER Amendment Act*].

¹⁵⁴ RSC 1985, c N-7, as repealed by the *CER Amendment Act*, *supra* note 153.

¹⁵⁵ (2024) C Gaz I, 3662.

¹⁵⁶ (2024) C Gaz I, 3682.

regulatory requirements for companies engaging in cross-border energy trade. The proposed *International Power Lines (Permits) Regulations* repeal the *NEB Electricity Regulations* while updating the permitting framework for international power line projects under the *CER Act*.¹⁵⁷ The proposed *Export and Import Reporting Regulations* are intended to standardize reporting requirements across different energy commodities, improving data collected by the CER.¹⁵⁸ Finally, the proposed *Toll Information Reporting Regulations* replace those under the *NEB Act* and require that toll information be provided to the CER.¹⁵⁹

IV. PIPELINES

The CER introduced revised Event Reporting Guidelines (ER Guidelines) effective 12 March 2025.¹⁶⁰ The ER Guidelines provide federally regulated companies with information and instructions that clarify the CER's expectations following an incident, such as a pipeline leak. Specifically, the ER Guidelines set out what needs to be reported, when and how to notify the CER, and the information that companies must submit via the CER's Online Event Reporting System.¹⁶¹

The revisions follow a CER-initiated 90-day comment period in early 2024 to obtain feedback on the Draft 2024 Revised ER Guidelines.¹⁶² Among other things, the revised ER Guidelines update the definition and provide examples of incidents that have a "significant adverse effect on the environment."¹⁶³ The updated examples are intended to highlight the CER's continued emphasis on the use of the precautionary approach to event reporting by regulated companies. The ER Guidelines may undergo further revisions following the results of the Onshore Pipeline Regulations and Filing Manuals Review Project.¹⁶⁴

V. INDIGENOUS LAW

Below we discuss two important pieces of legislation that — owing to the prorogation of Parliament on 6 January 2025 — did not become law. We discuss them because of their importance and the possibility that they will be re-introduced in the new Parliament.¹⁶⁵ Additionally, we discuss amendments tabled under Bill 25, the *Haida Nation Recognition Amendment Act, 2024*.¹⁶⁶

¹⁵⁷ (2024) C Gaz I, 3703.

¹⁵⁸ (2024) C Gaz I, 3712.

¹⁵⁹ (2024) C Gaz I, 3731.

¹⁶⁰ Canada Energy Regulator, *Event Reporting Guidelines*, Catalogue No 2024E-PDF (Calgary: CER, 2024) online: [perma.cc/XS5J-3P4K] [*Event Reporting Guidelines*].

¹⁶¹ Canada Energy Regulator, *Revisions to Canada Energy Regulator Event Reporting Guidelines*, File 4689957 (Calgary: CER, 2024) online: [perma.cc/2GWA-SRZA] [*Revisions to CER Event Reporting*].

¹⁶² *Ibid.*

¹⁶³ *Event Reporting Guidelines*, *supra* note 160, s 5.2.2.

¹⁶⁴ *Revisions to CER Event Reporting*, *supra* note 161. See also Canada Energy Regulator, "Onshore Pipeline Regulations and Filing Manuals Review Project" (23 July 2025), online: [perma.cc/395X-MF9N].

¹⁶⁵ Or, in the case of Bill C-61, the prospect of a motion being passed that would allow debate to resume where it ended in January 2025: Bill C-61, *An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands*, 1st Sess, 44th Parl, 2024 (as amended by committee 2 December 2024).

¹⁶⁶ Bill 25, *Haida Nation Recognition Amendment Act, 2024*, 5th Sess, 42nd Parl, British Columbia, 2024 (assented to 15 May 2024), SBC 2024, c 23.

A. **BILL C-61: *FIRST NATIONS CLEAN WATER ACT***

Bill C-61, the *First Nations Clean Water Act*, recognizes and affirms the inherent right of First Nations to self-government in relation to water, drinking water, wastewater, and related infrastructure on, in, and under First Nation lands.¹⁶⁷ Grounded in section 35 of the *Constitution Act, 1982*,¹⁶⁸ the Bill establishes minimum standards for drinking water and wastewater services on First Nation lands, while respecting the principle of First Nations' jurisdiction over their water resources and related infrastructure.¹⁶⁹ Bill C-61 also sets out principles to inform the provision of clean and safe drinking water as well as the effective treatment and disposal of wastewater on First Nations lands.

Bill C-61 was first introduced on 11 December 2023 to address longstanding concerns regarding water quality and infrastructure in Indigenous communities. Having passed second reading in the House of Commons on 5 June 2024, the Bill is currently under legislative consideration with the Standing Committee on Indigenous and Northern Affairs, which submitted its report and proposed amendments to the House of Commons on 2 December 2024.¹⁷⁰

B. **BILL C-77: *COMMISSIONER FOR MODERN TREATY IMPLEMENTATION ACT***

Bill C-77, tabled in the House of Commons on 10 December 2024, would have established a Commissioner for Modern Treaty Implementation, charged with auditing and reviewing the conduct of federal institutions in fulfilling obligations under modern treaties with Indigenous Peoples.¹⁷¹

The Bill would have institutionalized oversight through the creation of the Office of the Commissioner.¹⁷² This role appears intended as a means of enhancing transparency and accountability in treaty implementation. Notably, the Office of the Commissioner would not have any statutory authority to issue binding decisions. Instead, final reports authored by the Commissioner would be tabled in Parliament in order to improve public visibility and institutional scrutiny.¹⁷³

Bill C-77 also would have introduced certain amendments to several federal statutes, including the *Access to Information Act*, *Privacy Act*, and *Financial Administration Act*,

¹⁶⁷ Bill C-61, *supra* note 165.

¹⁶⁸ *Constitution Act, 1982*, s 35, being Schedule B to the Canada Act (UK), 1982, c 11.

¹⁶⁹ Indigenous Services Canada, *Appearance before the Standing Committee on Indigenous and Northern Affairs (INAN), Bill C-61, First Nations Clean Water Act* (Ottawa: INAN, 20 February 2024), online: [perma.cc/J68D-QBJ9].

¹⁷⁰ Canada, Standing Committee on Indigenous and Northern Affairs, *Report 19: Bill C-61, An Act respecting water, source water, drinking water, wastewater and related infrastructure on First Nation lands* (Ottawa: INAN, 2024) (Chair: Patrick Weller), online: [perma.cc/KQ65-MJ97].

¹⁷¹ Bill C-77, *An Act respecting the Commissioner for Modern Treaty Implementation*, 1st Sess, 44th Parl, 2024, s 6 (first reading 10 October 2024).

¹⁷² *Ibid.*

¹⁷³ *Ibid.*, ss 8–13. See also Government of Canada, “Charter Statement: Bill C-77” (10 December 2024), online: [perma.cc/2KC7-YN6K].

among others.¹⁷⁴ These amendments were designed to integrate the new oversight role into existing administrative and legal frameworks.

C. **BILL 25: HAIDA NATION RECOGNITION AMENDMENT ACT, 2024**

Amendments tabled under Bill 25, the *Haida Nation Recognition Amendment Act, 2024*, came into force on 5 July 2024.¹⁷⁵ As amended, the *Haida Nation Recognition Act*¹⁷⁶ confirms the historic *Gaayhlxid • Giihlagalgang “Rising Tide” Haida Title Lands Agreement* (the Agreement),¹⁷⁷ entered into by the Government of British Columbia and the Haida Nation in April 2024 and affirms the Province’s recognition that the Haida Nation holds Aboriginal title within the meaning of section 35 of the *Constitution Act, 1982* over Haida Gwaii and its surrounding waters. However, the *Act* also states that existing fee simple rights to land in Haida Gwaii “are confirmed and continued.”¹⁷⁸

In *Tsilhqot’in Nation v. British Columbia*, the Supreme Court of Canada described Aboriginal title as conferring ownership rights “similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land.”¹⁷⁹ Therefore, the *Haida Nation Recognition Act* appears to contemplate that two different but similar sets of rights could apply to the same land. How this will work is not clear, and the *Act* seems to acknowledge this, as it states: “British Columbia acknowledges that the measures set out in this section are interim measures and that changes to the laws of the Haida Nation and the laws of British Columbia are necessary to reconcile systems of law and governance on Haida Gwaii.”¹⁸⁰ The Agreement’s effect on other land-related interests — such as mineral or forestry tenures, permits, leases, and rights-of-way — is also unclear. Although the *Act* provides that existing laws related to Crown land “continue to apply in relation to land that is held by the Haida Nation,” these provisions are “interim measures” pending legal reconciliation between Haida and provincial legal systems.¹⁸¹ Taken together, this landmark Agreement and its recent implementation have introduced operational uncertainty for entities and individuals holding rights or licences on Haida Gwaii.

VI. ENVIRONMENTAL LAW

A. **SINGLE USE PLASTICS PROHIBITION REGULATIONS LITIGATION**

Litigation related to the *Single-use Plastics Prohibition Regulations* (the Regulations)¹⁸² continued to wind its way through the Federal Courts in 2024, extending questions regarding the validity of the Government of Canada’s attempt to regulate single-use plastics under

¹⁷⁴ Bill C-77, *supra* note 171, ss 36–41; *Access to Information Act*, RSC 1985, c A-1; *Privacy Act*, RSC 1985, c P-21; *Financial Administration Act*, RSC 1985, c F-11.

¹⁷⁵ Bill 25, *supra* note 166; *Haida Nation Recognition Amendment Act, 2024*, SBC 2024, c 23.

¹⁷⁶ SBC 2023, c 24, as amended by *Haida Nation Recognition Amendment Act, 2024*, *supra* note 175.

¹⁷⁷ 14 April 2024, online: [perma.cc/662V-D4DN] [*Rising Tide Agreement*].

¹⁷⁸ *Haida Nation Recognition Act*, *supra* note 176, s 4.3.

¹⁷⁹ 2014 SCC 44 at para 73.

¹⁸⁰ *Haida Nation Recognition Act*, *supra* note 176, s 4.4(1).

¹⁸¹ *Ibid*, s 4.4(1)–(2).

¹⁸² SOR/2022-138.

CEPA.¹⁸³ The decision in *Responsible Plastic Use Coalition v. Canada* stemmed from the 23 April 2021 Governor in Council Order Adding a Toxic Substance to Schedule 1 to the *Canadian Environmental Protection Act, 1999* (the Order), which classified plastic manufactured items (PMIs) as toxic.¹⁸⁴ This classification enabled the adoption of the Regulations, which banned the manufacture, import, and sale of various single-use plastic products in Canada. The Responsible Plastic Use Coalition and several other major industry players successfully challenged the Order in the Federal Court, which held that the classification of all PMIs as toxic was unreasonable and unconstitutional, rendering the Order invalid.¹⁸⁵

In response, the Attorney General of Canada appealed the decision to the Federal Court of Appeal and sought a stay of the lower court's ruling.¹⁸⁶ On 25 January 2024, the Federal Court of Appeal granted an interim stay, maintaining the legal effect of the Order and the subsequent Regulations pending the resolution of the appeal. The Court found that the government had raised serious legal questions about the Federal Court's ruling, particularly regarding the constitutionality of Governor in Council's authority to regulate plastics under *CEPA*.¹⁸⁷ The Federal Court of Appeal also emphasized the potential for public harm and regulatory uncertainty if the Regulations were suspended, noting that businesses had already adapted to compliance requirements.¹⁸⁸

A key consideration in the appeal is the impact of Bill S-5, the *Strengthening Environmental Protection for a Healthier Canada Act*, which separately added PMIs to Schedule 1 of *CEPA* after the Federal Court's ruling.¹⁸⁹ In its decision, the Federal Court of Appeal appeared to acknowledge that its judgment may clarify the effect of Bill S-5 on the validity of the Regulations and their enforceability moving forward.¹⁹⁰

B. NOTICE WITH RESPECT TO REPORTING OF PLASTIC RESINS AND CERTAIN PLASTIC PRODUCTS FOR THE FEDERAL PLASTICS REGISTRY FOR 2024, 2025, AND 2026

The Government of Canada has implemented the Federal Plastics Registry through the issuance of a notice under section 46 of *CEPA* (the Notice), published in the *Canada Gazette* on 20 April 2024.¹⁹¹

¹⁸³ *Supra* note 3.

¹⁸⁴ *Responsible Plastic Use Coalition v Canada (Environment and Climate Change)*, 2023 FC 1511 at para 3.

¹⁸⁵ *Ibid* at para 193.

¹⁸⁶ *Canada (Attorney General) v Responsible Plastic Use Coalition*, 2024 FCA 18 [*Responsible Plastic Use Coalition FCA*].

¹⁸⁷ *Ibid* at para 16.

¹⁸⁸ *Ibid* at para 28.

¹⁸⁹ Bill S-5, *An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act*, 1st Sess, 44th Parl, 2023 (assented to 13 June 2023), SC 2023, c 12.

¹⁹⁰ *Responsible Plastic Use Coalition FCA*, *supra* note 186 at para 27.

¹⁹¹ Notice with Respect to Reporting of Plastic Resins and Certain Plastic Products for the Federal Plastics Registry for 2024, 2025 and 2026 (Department of the Environment), (2024) C Gaz I, 848 [*Reporting of Plastics Notice*].

The Registry is a key component of the federal government's broader Zero Plastic Waste agenda and is intended to enhance the monitoring and traceability of plastic throughout its lifecycle, from manufacture and importation to end-of-life management.¹⁹² The section 46 Notice legally compels producers of plastic resins and products, and other specified entities¹⁹³ to collect and report data on plastic-related activities with a view to informing policy development, supporting the reduction of plastic pollution, and increasing circularity in the plastics economy.

The Notice describes a product reporting process that will be phased in stages:

[F]or the purpose of conducting research, creating an inventory of data, formulating objectives and codes of practice, issuing guidelines or assessing or reporting on the state of the environment, any person described in Schedule 3 of this notice and who possesses or who may reasonably be expected to have access to information described in Schedules 4 through 5 of this notice shall provide the Minister with this information [no later than 29 September 2025 for the 2024 calendar year].¹⁹⁴

Data for the 2025 calendar year must be submitted by 29 September 2026, and for the 2026 calendar year by 29 September 2027.

Entities subject to the reporting requirements must submit detailed annual reports on the quantity and types of plastic they manufacture, import, or supply (whether for payment or free) to the market. These reports must include data on plastic used in packaging and how it is managed at end-of-life (for example, recycled, landfilled, or incinerated).¹⁹⁵ Reporting entities must also disclose information on the geographic scope of their operations and the sectors in which the plastic is used. Notably, the reporting obligations apply to both primary producers and entities further down the supply chain, depending on their involvement in the lifecycle of plastics, as defined in the Registry framework.¹⁹⁶

These developments signal a significant regulatory shift in the federal management of plastic waste and represent an early step toward harmonizing data collection frameworks across jurisdictions. Energy and resource-sector stakeholders, particularly those involved in the manufacturing, distribution, or end-of-life management of plastic materials or packaging, will need to assess their compliance obligations under the new regime and adapt their internal reporting systems accordingly.

C. **BILL C-226: NATIONAL STRATEGY RESPECTING ENVIRONMENTAL RACISM AND ENVIRONMENTAL JUSTICE ACT**

On 20 June 2024, the *National Strategy Respecting Environmental Racism and Environmental Justice Act* received royal assent.¹⁹⁷ The preamble to the *Act* recognizes that

¹⁹² Environment and Climate Change Canada, "Federal Plastics Registry" (29 September 2025), online: [perma.cc/5F7A-S6WP].

¹⁹³ Reporting of Plastics Notice, *supra* note 191 at Schedule 3.

¹⁹⁴ *Ibid* at 848.

¹⁹⁵ *Ibid* at Schedule 4.

¹⁹⁶ *Ibid*.

¹⁹⁷ Bill C-226, *An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice*, 1st Sess, 44th Parl, 2024 (assented to 20 June 2024), SC 2024, c 11.

“a disproportionate number of people who live in environmentally hazardous areas are members of an Indigenous, racialized or other marginalized community” and that this “could be considered a form of racial discrimination.”¹⁹⁸ Pursuant to section 4 of the *Act*, the Minister of the Environment must, within the next two years, prepare a report setting out a national strategy to address environmental racism.¹⁹⁹ The strategy must be developed in co-operation with Indigenous peoples and incorporate periodic progress reports every five years thereafter.²⁰⁰

According to the Government of Canada, the *Act* “reflects the Government’s commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples” (UNDRIP) and aligns with broader reconciliation objectives.²⁰¹ While the *National Strategy Respecting Environmental Racism and Environmental Justice Act* does not itself refer to UNDRIP, this legislation arguably signals a shift toward recognizing and mitigating the disproportionate environmental burdens faced by marginalized communities, particularly Indigenous populations.

D. BILL C-69: AMENDMENTS TO THE *IMPACT ASSESSMENT ACT*

Drafted in response to the Supreme Court of Canada’s ruling in *Reference re Impact Assessment Act*,²⁰² amendments to the *IAA*²⁰³ were enacted through Bill C-69 on 20 June 2024.²⁰⁴ According to the Government of Canada, these amendments respond to the Supreme Court’s decision by reinforcing the principle of co-operative federalism and enhancing procedural clarity for stakeholders while ensuring federal oversight remains targeted and constitutionally sound.²⁰⁵

Some key amendments include: (1) changing the definition of “adverse effects *within federal jurisdiction*” in order to focus on “non-negligible adverse change” related to a federal subject matter;²⁰⁶ (2) directly related to the previous amendments, limiting the Minister’s power to designate physical activities that “may cause adverse effects *within federal jurisdiction* or direct or incidental adverse effects”;²⁰⁷ (3) authorizing the Minister to make substitutions of non-federal procedures for impact assessments where appropriate;²⁰⁸ and (4) restructuring approval decisions (including by the Minister or Governor in Council) on designated projects such that they first consider “whether the adverse effects within federal jurisdiction” will be significant,²⁰⁹ and if so, whether these effects are justified in the public

¹⁹⁸ *Ibid* at Preamble.

¹⁹⁹ *Ibid*, s 4.

²⁰⁰ *Ibid*, ss 3(2), 5.

²⁰¹ Environment and Climate Change Canada, “Environmental Justice and Environmental Racism” (15 October 2025), online: [perma.cc/CZP2-KZL3].

²⁰² 2023 SCC 23.

²⁰³ *Supra* note 1.

²⁰⁴ Bill C-69, *An Act to implement certain provisions of the budget tabled in Parliament on April 16, 2024*, 1st Sess, 44th Parl, 2024, cls 269–319 (assented to 20 June 2024), SC 2024, c 17.

²⁰⁵ Impact Assessment Agency of Canada, Public Notice, “Amended Impact Assessment Act Now in Force” (21 June 2024), online: [perma.cc/6N3M-TU6T].

²⁰⁶ See e.g. *IAA*, *supra* note 1, s 2 [emphasis added].

²⁰⁷ *Ibid*, s 9(1) [emphasis added].

²⁰⁸ *Ibid*, s 31. See generally *ibid*, ss 31–35.

²⁰⁹ *Ibid*, ss 60(1)(a), 62(a).

interest,²¹⁰ having reference to an enumerated list of public interest factors, including section 35 Aboriginal and treaty rights, commitments in respect of climate change, and contribution to sustainability.²¹¹

E. PROPOSED QIKIQTAIT AND SARVARJUAQ ORDERS DESIGNATING MARINE PROTECTION

On 21 December 2024, two Ministerial Orders were proposed under section 35(3) of the *Oceans Act*²¹² to designate the Qikiqtaït area in Hudson Bay and the Sarvarjuaq region in the high Arctic²¹³ as Marine Protected Areas. As currently drafted, the Orders would prohibit all disruptive activities for five years post-designation, excluding those permitted under the *Nunavut* or *Nunavik Agreements*.²¹⁴

F. ALBERTA'S EXTENDED PRODUCER RESPONSIBILITY REGULATION

Alberta's Extended Producer Responsibility (EPR) framework is established under the *Extended Producer Responsibility Regulation* pursuant to its enabling statute, the *Environmental Protection and Enhancement Act*.²¹⁵ In essence, the EPR system shifts the burden of waste management (including single-use products, packaging, paper products, and hazardous and special products) from municipalities to producers. The Alberta Recycling Management Authority remains the governing body overseeing producer registration, reporting, and collection requirements. Pursuant to the collection timelines stated in the *EPR Regulation*, producers were required to complete verification of their capacity to meet mandated collection obligations by 1 April 2024.²¹⁶ On 20 June 2024, the *EPR Regulation* was amended to add a section for newspaper and magazine exemptions.²¹⁷

By 1 April 2025, producers were required to establish a common collection system for single-use packaging, paper products, and hazardous materials in all registered communities currently serviced by municipal recycling programs.²¹⁸ Service standards mandate biweekly curbside collection for single-family dwellings and equivalent collection accessibility for multi-family dwellings.²¹⁹ The *EPR Regulation* also sets incremental targets for material recovery, and by 2027 producers must achieve an 80 percent recycling rate for paper products, 50 percent for rigid plastics, 25 percent for flexible plastics, 67 percent for metal, 75 percent for glass, and 40 percent for batteries.²²⁰

²¹⁰ *Ibid*, ss 60(1)(b), 62(b).

²¹¹ *Ibid*, s 63.

²¹² SC 1996, c 31.

²¹³ *Order Designating the Qikiqtaït Marine Protected Area* (Department of Fisheries and Oceans), (2024) C Gaz I, 4150 [Qikiqtaït Order]; *Order Designating the Sarvarjuaq Marine Protected Area* (Department of Fisheries and Oceans), (2024) C Gaz I, 4172 [Sarvarjuaq Order].

²¹⁴ Qikiqtaït Order, *supra* note 213 at 4156–4157; Sarvarjuaq Order, *supra* note 213 at 4179.

²¹⁵ *Extended Producer Responsibility Regulation*, Alta Reg 194/2022 [EPR Regulation].

²¹⁶ *Ibid*, s 16(4).

²¹⁷ *Ibid*, s 15.1.

²¹⁸ *Ibid*, s 25.

²¹⁹ *Ibid*, ss 17–18.

²²⁰ *Ibid*, ss 19, 26.

G. UPDATED ENVIRONMENTAL SITE ASSESSMENT STANDARD

Alberta's environmental site assessment (ESA) framework operates according to the provisions of the *Environmental Protection and Enhancement Act*²²¹ and the *Remediation Regulation*,²²² which together prescribe the provincial requirements for contaminated site management. Under this regime, the Environmental Site Assessment Standard establishes the technical and procedural requirements for conducting ESAs, which are essential in assessing site conditions, determining remediation obligations, and ensuring regulatory compliance.²²³ On 17 December 2024, the ESA Standard was revised to introduce several changes aimed at improving consistency, enhancing risk-based decision-making, and aligning with evolving best practices in site assessment. The 2024 ESA Standard aligns with recent legislative developments, including the 2022 amendments to the *Remediation Regulation*.²²⁴ The ESA Standard also integrates recent updates from the 2023 Contaminated Sites Policy Framework and explicitly incorporates reference to the 2024 versions of the Alberta Tier 1 and Tier 2 Guidelines.²²⁵ Most significantly, the 2024 ESA Standard revision also includes a Phase 2 ESA Checklist, which forms the basis for reporting submitted to AEPA or the AER under *EPEA*, thus clarifying ESA requirements in the province.²²⁶

VII. COAL

In 1976, the Government of Alberta adopted the *Coal Development Policy for Alberta*.²²⁷ The *Coal Policy* established four categories of land, each with differing restrictions on coal exploration and development.²²⁸ No exploration or commercial development is permitted on Category 1 lands, which include national and provincial parks and designated wilderness areas. Category 2 lands are described as those “in which limited exploration is desirable and may be permitted under strict control but in which commercial development by surface mining will not normally be considered at the present time.”²²⁹ Category 2 lands includes areas in the Rocky Mountains and foothills. Exploration and development are permitted on Category 3 and Category 4 lands, subject to environmental assessment.

²²¹ *EPEA*, *supra* note 49.

²²² Alta Reg 154/2009.

²²³ Alberta Environment and Protected Areas, *Environmental Site Assessment Standard*, EPA Lands Policy 2024 No 5 (Edmonton: AEPA, 2024), online (pdf): [perma.cc/QF65-LWAH] [*ESA Standard*].

²²⁴ *Ibid*, ss 1.2, 1.4, 1.4.1.

²²⁵ *Ibid*, s 1.2; Alberta, Environment and Protected Areas, *Contaminated Sites Policy Framework*, EPA Lands Policy 2023 No.1 (Edmonton: AEPA, 2023), online (pdf): [perma.cc/K5R5-8LB4]; Alberta, Environment and Protected Areas, *Alberta Tier 1 Soil and Groundwater Remediation Guidelines*, EPA Lands Policy 2024 No. 1 (Edmonton: AEPA, 2024), online (pdf): [perma.cc/52AQ-Z46Z]; Alberta, Environment and Protected Areas, *Alberta Tier 2 Soil and Groundwater Remediation Guidelines*, EPA Lands Policy 2024 No. 2 (Edmonton: AEPA, 2024), online (pdf): [perma.cc/FL6X-4VHZ].

²²⁶ *ESA Standard*, *supra* note 223 at Appendix A.

²²⁷ Alberta, Department of Energy and Natural Resources, *A Coal Development Policy for Alberta* (Edmonton: Department of Energy and Natural Resources, 15 June 1976) online (pdf): [perma.cc/7AQQ-MMGS] [*Coal Policy*].

²²⁸ Although the *Coal Policy* applies throughout Alberta, as shown in the map identifying the location of the four categories of land, in practice the Policy is aimed at coal exploration and development in the Eastern Slopes of the Rocky Mountains (*ibid* at Appendix 2).

²²⁹ *Coal Policy*, *supra* note 227, s 3.13.

In 2020, the Government of Alberta rescinded the *Coal Policy*.²³⁰ Following significant public criticism, the *Coal Policy* was reinstated in February 2021,²³¹ and a Coal Policy Committee was established by the Minister of Energy to make recommendations on the development of a new coal policy.²³² The Committee issued a report in December 2021 with eight principal recommendations, the first being that the pause on coal exploration and development on Category 2 Lands should continue until specific regional and subregional land use plans for the Eastern Slopes are completed.²³³

During the period, the *Coal Policy* was rescinded, all restrictions on coal exploration and development on Category 2 and 3 lands were removed.²³⁴ During this time, the Government of Alberta began processing and approving a backlog of previously filed applications for Crown leases and exploration permits. Following the reinstatement of the *Coal Policy*, the government did not cancel Crown coal leases or coal exploration permits issued during the period the policy was rescinded.²³⁵

In reinstating the *Coal Policy*, the Government of Alberta issued direction to the AER in the form of three Ministerial Orders that suspended all coal licensing approvals on the Eastern slopes of the Rockies:

- Ministerial Order 054/2021 issued 8 February 2021, directed the AER not to issue any new coal exploration approvals in Category 2 lands.²³⁶
- Ministerial Order 093/2021 issued 23 April 2021, directed the AER to pause coal exploration activities in Category 2 lands.²³⁷
- Ministerial Order 002/2022 issued 2 March 2022, directed the AER to suspend approvals for exploration and development of Category 3 and 4 lands, with the exception of advanced projects or active approvals.²³⁸

²³⁰ Government of Alberta, *Information Letter 2020-23: Rescission of A Coal Development Policy for Alberta and New Leasing Rules for Crown Coal Leases* (Edmonton: Government of Alberta, 2020) online (pdf): [perma.cc/2TES-UBMM] [*IL 2020-23*]; Alberta Energy, Coal Informational Bulletin 2020-02, “New Leasing Rules for Crown Coal Rights” (Edmonton: Alberta Energy, 2020), online (pdf): [perma.cc/7GHJ-WW5F].

²³¹ Alberta Energy, *Information Letter 2021-07: Reinstatement of the 1976 Coal Policy* (Edmonton: Alberta Energy, 2021) online (pdf): [perma.cc/A3FR-TZ8G] [*IL 2021-07*].

²³² The Coal Policy Committee was established by the Government of Alberta on 29 March 2021 (Alberta, Coal Policy Committee, *Final Report: Recommendations for the Management of Coal Resources in Alberta* (Edmonton: Coal Policy Committee, 2021), online (pdf): [perma.cc/E6Z6-DKQP]).

²³³ *Ibid* at 7.

²³⁴ *IL 2020-23*, *supra* note 230 at 1.

²³⁵ See Minister Savage’s coal policy update wherein the Minister referred to six approved exploration programs on Category 2 lands but noted four of these began while the *Coal Policy* was in place: YourAlberta (Government of Alberta), “Coal Policy Update – February 8, 2021” (8 February 2021) at 00h:02m:00s, online (video): [perma.cc/6EKC-2NZQ].

²³⁶ See attachment to *IL 2021-07*, *supra* note 231 at 3.

²³⁷ Ministerial Order 093/2021 (not published in Alberta Gazette at time of writing), online (pdf): [perma.cc/T46B-93W2].

²³⁸ Ministerial Order 002/2022 (not published in Alberta Gazette at time of writing), online (pdf): [perma.cc/N5TQ-EBBA] (“an ‘advanced coal project’ is a project for which the proponent has submitted a project summary to the AER for the purposes of determining whether an environmental impact assessment is required” at 3).

In December 2024, the Government of Alberta announced the Coal Industry Modernization Initiative (the Initiative), whose stated goal is to modernize Alberta's legislative framework on coal resource management through the implementation of the eight recommendations made in the Coal Policy Committee's report.²³⁹ The Initiative targets late 2025 for drafting of new coal regulations and legislation for government approval.

On 15 January 2025, the Minister of Energy approved Ministerial Order 003/2025, which rescinded the three previously issued Ministerial Orders (MO 054/2021, 093/2021, and 002/2024) related to coal mining activities in the Eastern Slopes and confirmed the *Coal Policy*.²⁴⁰ In a letter accompanying the Ministerial Order, the Minister of Energy directed the AER "to lift the suspensions of all approvals that were suspended under Ministerial Orders 054/2021, 093/2021 and 002/2022 and extend the expiry dates of approvals suspended under those orders to account for the period of suspension."²⁴¹ Ministerial Order 003/2025 confirms that when evaluating coal applications the AER will "continue to apply the restrictions in place in respect of the exploration for and development of coal within categories of lands" as set out in the *Coal Policy* "with consideration of the Coal Industry Modernization Initiative policy guidance."²⁴²

The Government of Alberta has since reaffirmed that applications for new coal leases on Crown land in Categories 2, 3, and 4 within the Eastern Slopes are not being accepted, unless the application is within an active coal mine permit area.²⁴³ In doing so, the Government of Alberta confirmed active coal lease applications accepted by Alberta Energy and Minerals prior to May 2020 will maintain their current status.

VIII. CONCLUSIONS

The past year has brought notable legislative and regulatory changes of importance to the practice of energy law in Canada. Many of these developments, particularly those occurring between June and April 2025, have been summarized in this article. In particular, this article has provided an overview of the changes associated with the *Impact Assessment Act*. Several legislative and regulatory developments of interest to energy lawyers have occurred since the article was completed in April 2025 and the authors look forward to following these developments in the year ahead.

²³⁹ Alberta Energy and Minerals, News Release, "Protecting the Environment with Tougher Coal Rules" (20 December 2024), online: [perma.cc/MBP9-CKCM]; see also Government of Alberta, *Coal Industry Modernization Initiative*, online: [perma.cc/J6Y3-XHA8].

²⁴⁰ Ministerial Order 003/2025 (not published in Alberta Gazette at time of writing), online (pdf): [perma.cc/FY7Y-4P49] [MO 003/2025]; Alberta Energy Regulator, Bulletin 2025-03, "New Direction for Coal Activity in the Eastern Slopes of Alberta's Rocky Mountains" (Calgary: AER, 2025) [Bulletin 2025-03].

²⁴¹ Bulletin 2025-03, *supra* note 240 at 2.

²⁴² MO 003/2025, *supra* note 240 at 2.

²⁴³ Alberta Energy and Minerals, *Information Letter 2025-06: Restrictions to Crown Coal Leasing* (Edmonton: Alberta Energy and Minerals, 2025) online (pdf): [perma.cc/MJE2-4EQC].