

Insights

STATE SPECIFIC REQUIREMENTS FOR WIND AND SOLAR PROJECT LAND CONTRACTS

2024 OVERVIEW

Mar 26, 2024

In the U.S., wind and solar project development continues to increase. In fact, the Energy Information Administration (EIA) anticipates that wind and solar energy will continue to exceed electrical generation by other means. The EIA notes that new solar projects expected to come online in 2024 will increase solar power generation by 75%, with wind power generation increasing by 11%. Solar power generation is predicted to increase from 163 billion kWh in 2023, to roughly 286 billion kWh in 2025. Wind power generation is expected to increase to 476 kWh during the same period (up from approximately 430 kWh in 2023).

With solar and wind power being intermittent energy generation sources (i.e., they only produce on sunny or windy days respectively), unsurprisingly battery storage projects have also increased in an effort to retain excess solar and wind electrical energy for later use. In fact, the EIA anticipates battery storage capacity in the U.S. to nearly double in 2024, increasing by 89%. By the end of 2023, anticipated and actual operating utility-scale battery capacity in the U.S. totaled roughly 16 GW, with an additional 15GW anticipated in 2024.

In response to this continued rapid growth, many state and local governments have continued to pursue opportunities to limit or outright ban such development for a multitude of reasons. Although roughly only 15% of U.S. counties have effectively prevented new utility-scale wind and solar developments, the rate of such bans appears to be increasing. In fact, in 2023, the number of counties preventing new utility-scale solar installations nearly equaled the number of counties welcoming their first solar project. However, the impediments can be far greater for wind projects. Over the last ten years, 183 counties in the U.S. accepted their first commercial wind project, but during the same period nearly 375 counties banned such development.

While many state and local governments continue to enact restrictions on project development through zoning, permitting and setback requirements, many states have already required by statute specific language to be included in wind and solar land contracts, such as leases and easements. This overview is intended to provide a quick reference guide with respect to the various state statutory requirements for language to be included in wind and solar project leases and easements.

Updates will be forthcoming as additional states enact such requirements, and as relevant case law interprets such statutory requirements or provides commentary on the repercussions of noncompliance.

[Download the full overview >](#)

MEET THE TEAM



Puanani E. Norwood

Los Angeles / Kansas City

puanani.norwood@bcplaw.com

[+1 310 576 2184](tel:+13105762184)



Deanna L. Davise

St. Louis

deanna.davise@bcplaw.com

[+1 314 259 2086](tel:+13142592086)



Michael Belling

Los Angeles

michael.belling@bcplaw.com

[+1 310 576 2345](tel:+13105762345)



Talia Housik

Los Angeles

talia.housik@bclplaw.com

+1 310 576 2117

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.