FOREVER RENEWABLES
TECHNOLOGY CONSULTING INC

Rule 007 Consultation Suggestions for Solar Power Plant Applications

Prepared For Forever Renewables Technology Consulting Inc.

Contents

Revision Details:

Date	Revisions Number
May 21, 2025	01

1. Suggestion Category Summary:

For Blackline Version
Supportive Category: SP8
Opposing Fully Category: SP34
Opposing With Changes Category: SP9, SP11, SP14, SP19, SP22, SP23, SP25, SP33, SP38, SP40, SP41

Please Note: Blackline Version SP numbers are referenced.

Supportive Category:

2. SP8

"Describe any public benefits that will be generated by the proposed project."

The requirement to describe public benefits is welcomed as it aligns with the AUC's mandate to consider social and economic factors.
Example: Applicants should be encouraged to include Employment Generation Reports showing anticipated jobs created, and Carbon Reduction Reports quantifying expected CO_2 offsets.

Opposing With Changes:

3. SP9

If a connection order is not concurrently being applied for, IF AVAILABLE, provide the expected date when the connection order application will be submitted.

Added "IF AVAILABLE", If connection order is not applied concurrently, the interconnection information cannot be considered as either major or minor deficiency. The purpose of a connection order application cannot be entangled with a Power Plant application. If required the commission can impose conditions. The reasons are mentioned below :

1. **Separate Legislative and Procedural Streams**
   A **Power Plant Approval application** under the *Hydro and Electric Energy Act* is legally and procedurally **distinct from a Connection Order application** under the *Electric Utilities Act* and AUC Rule 002. The two applications serve different purposes and **should not be procedurally entangled**. Requiring firm

interconnection timelines at the power plant stage may improperly conflate independent regulatory pathways.

2. **Non-Availability of Interconnection Information at Time of Application**
   In many cases, the applicant:

   - Is still engaging with the **distribution or transmission facility owner**;
   - Is awaiting a **distribution feasibility study** or **technical screening**;
   - Cannot reasonably determine the connection order timing with certainty at the time of power plant application.

   Therefore, mandating a connection order submission date may be **infeasible** or speculative. Inclusion of "IF AVAILABLE" recognizes this reality.

3. **Avoidance of Procedural Prejudice or Deficiency Classification**
   The absence of a concurrent connection order **should not be treated as a major or minor deficiency** in the power plant application, so long as the applicant:

   - Describes the intended point of interconnection (where known); and
   - Commits to obtaining the required connection approval prior to energization.

4. **Commission's Ability to Impose Conditions**
   If the Commission determines that interconnection timing is material to the public interest, it may **exercise its discretion to impose conditions of approval**, such as requiring the submission of a connection order before construction or operation begins. This approach preserves flexibility while maintaining regulatory integrity.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65

- **Key Principle**:

  "Administrative processes must be proportionate and responsive to the nature of the matter... An unjustified delay or unnecessary procedural step may render the process unreasonable." (paras 77–85)

- **Relevance**:
  A leading case establishing that **regulatory bodies must ensure fair, timely, and rational procedures**. Speculative objections or bureaucratic delay **must not frustrate legitimate applicants**. Delays from third-party entities (e.g., FortisAlberta taking 4–6 months for feasibility studies) should **not be used to stall or classify a power plant application as deficient**. This supports the addition of “IF AVAILABLE.”

  Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (CanLII), [2019] 4 SCR 653, at para 77, <https://canlii.ca/t/j46kb#par77>, retrieved on 2025-05-17

4. SP11

If the power plant is to be connected to the transmission system, IF AVAILABLE, provide a map with one or more conceptual layouts showing possible routes and general land locations for facilities that would be used to interconnect the power plant to the Alberta Interconnected Electric System.

If the power plant is to be connected to the distribution system, IF AVAILABLE, provide a statement from the distribution facility owner indicating that it is willing to connect the generating facilities.

The interconnection maps may not be available if AESO hasn't finalized route planning. The cluster assessments applications are accepted once a year and it would not be viable to block a power plant approval just because transmission interconnection map is not available.

“IF AVAILABLE” is added for the below reasons:

1. Procedural Independence Between Facility Approval and Connection Processes

Under Alberta’s regulatory framework, the power plant approval (under the *Hydro and Electric Energy Act*) and the interconnection approval (under the *Electric Utilities Act*) are **distinct regulatory processes**. The power plant applicant may not have complete or final interconnection details at the time of application. Therefore, requiring definitive interconnection information prematurely can result

in:

- **Procedural inefficiencies**, if routes or interconnection configurations change post-filing.

Including "IF AVAILABLE" acknowledges this procedural separation and preserves flexibility during the planning and approvals phase.

2. Unreasonable Delay by Distribution Facility Owners (e.g., FortisAlberta)

Distribution facility owners such as **FortisAlberta frequently take 4 to 6 months** to complete a **High Level Study or Feasibility Assessment**, delaying project development timelines without any statutory obligation to expedite interconnection confirmation.

- FortisAlberta, as a **private, for-profit utility**, should not have the ability to **delay or obstruct AUC consideration** of a power plant application solely on the basis of pending feasibility studies.

- If FortisAlberta identifies legitimate technical barriers to interconnection, it can provide **Section 101 of the Electric Utilities Act** during the interconnection process—not pre-emptively obstruct the facility approval itself.

- Adding “IF AVAILABLE” ensures that **power plant applications are not procedurally penalized** for interconnection delays caused by utility inaction or administrative backlog.

3. AUC Retains Oversight Through Conditional Approval

The Commission retains full authority to:

- **Impose conditions** requiring interconnection confirmation before construction or energization;

Therefore, adding "IF AVAILABLE" does **not remove regulatory oversight**, but rather **prevents premature rejection** of applications due to third-party administrative delays.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65

- **Key Principle**:

  "Administrative processes must be proportionate and responsive to the nature of the matter... An unjustified delay or unnecessary procedural step may render the process unreasonable." (paras 15, 62,77–85)

- **Relevance**:
  A leading case establishing that **regulatory bodies must ensure fair, timely, and rational procedures**. Speculative objections or bureaucratic delay **must not frustrate legitimate applicants**. Delays from third-party entities (e.g., FortisAlberta taking 4–6 months for feasibility studies) should **not be used to stall or classify a power plant application as deficient**. This supports the addition of "IF AVAILABLE."

  Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (CanLII), [2019] 4 SCR 653, <https://canlii.ca/t/j46kb>, retrieved on 2025-05-17

5. SP14

Remove Request:

"Predict glare within a critical field of view (FOV) and a conservative FOV for route receptors (e.g., highways, roadways and railways), runways and flight paths, as described in the table below."

Remove Request "Table 4.3 FOVs for glare receptors"

A default 50 degrees FOV should be sufficient enough.

ForgeSolar also notes:
View angle (°)
Defines the left and right field-of-view of observers traveling along the Route. A view angle of 180° implies the observer sees glare in all directions. A view angle of 50° (default) implies the observer has a field-of-view of 50° to their left and right, i.e. a total FOV of 100°. This

default is based on FAA research which determined that the impact of glare that appears beyond 50° is mitigated (Rogers, 2015).

Azimuthal viewing angle (°)
The left and right field-of-view of the pilot during approach. Acceptable values are 0° to 180°. A view angle of 180° implies the pilot can see glare emanating from behind the plane. A view angle of 50° (default) implies the pilot has a FOV of 50° to their left and right during approach, i.e. a total FOV of 100°. This default is based on FAA research which determined that the impact of glare appearing beyond 50° is mitigated (Rogers, 2015).

Rogers, J. A., et al. (2015). "Evaluation of Glare as a Hazard for General Aviation Pilots on Final Approach", Federal Aviation Administration (Download)

https://www.forgesolar.com/help/

The **default 50° azimuthal FOV**—supported by the **FAA's 2015 study**, used in **ForgeSolar**, and accepted in **AUC decisions**—provides a **conservative, consistent, and evidence-based approach**. This approach reduces administrative burden while continuing to protect aviation and public safety interests.

FAA Research-Based Standard: 50° Field-of-View

Primary Source:

Rogers, J. A., et al. (2015).
Evaluation of Glare as a Hazard for General Aviation Pilots on Final Approach.
Federal Aviation Administration.
[Download link]

- The study concluded that **glare beyond 50° azimuth** from the pilot's forward-facing view during approach **did not cause significant visual impairment** or hazard.

- As implemented in **ForgeSolar**, the **default 50° left/right azimuth FOV (100° total)** is **scientifically validated** and **conservatively protective**.

- **ForgeSolar's documentation**, widely used in North America for regulatory glare impact assessments, explicitly bases its defaults on this FAA research.

Industry Standards – ForgeSolar Software and Practice

- **ForgeSolar** is the industry-standard glare analysis platform, used across Canada and the U.S.
- Its **default 50° view angle** reflects FAA research and is:
    - **Conservative** (mitigates even non-hazardous glare),
    - **Uniformly adopted** across jurisdictions,
    - **Implemented in Transport Canada-accepted studies**.

Implication:
The FAA-supported 50° FOV is **scientifically validated**, widely **accepted across regulatory bodies**, and should suffice in lieu of more complex, discretionary tables.

Administrative Reasonableness and Evidence-Based Decision-Making

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- A regulatory decision or rule must be **justified, intelligible, and transparent**.
- Arbitrary or **overly prescriptive standards** not supported by clear evidence may be **unreasonable in law**.

Relevance:
Maintaining Table 4.3 with arbitrary or overly conservative FOVs **lacks current scientific backing**, given newer FAA research (Rogers, 2015).

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (CanLII), [2019] 4 SCR 653, <https://canlii.ca/t/j46kb>, retrieved on 2025-05-17

Avoidance of Unnecessary Regulatory Burden

Reference re Greenhouse Gas Pollution Pricing Act, 2021 SCC 11

- The Court emphasized that government and regulators must balance **public interest protection with minimal intrusion** into legitimate economic activity.

Relevance:
Requiring multiple FOVs or receptor-specific configurations (when FAA-endorsed defaults are sufficient) is a **disproportionate regulatory burden** with no proven benefit.

References re Greenhouse Gas Pollution Pricing Act, 2021 SCC 11 (CanLII), [2021] 1 SCR 175, at para 385, <https://canlii.ca/t/jdwnw#par385>, retrieved on 2025-05-17

6. SP19

Remove Request:
“Provide all definitions and standards (i.e., Alberta Wetland Identification and Delineation Directive) used to prepare this description.”

Listing Alberta Wetland Identification and Delineation (AWIDD) standards is unnecessary unless wetlands are present. Environmental Evaluations (EEs) are not equivalent to Water Act submissions. Example: If no wetland is impacted, listing the Alberta Wetland Policy or AWIDD creates regulatory clutter.

This portion is not required for the below reasons:

The Environmental Evaluation is Not a Regulatory Wetland Assessment

Environmental Evaluations (EEs) submitted as part of AUC applications are **not formal applications under the Alberta Wetland Policy** and do not seek wetland approval from Alberta Environment and Protected Areas (AEPA). Therefore, the full implementation or citation of the *Alberta Wetland Identification and Delineation Directive (AWIDD)* is **not mandatory** unless:

- A **wetland has been identified** within the project footprint, and
- **Regulatory disturbance** is proposed for that wetland.

Professional Discretion and Summary-Level Reporting

When a Qualified Environmental Professional prepares an EE:

- They apply **relevant best practices, guidance documents, and directives**, but are expected to **summarize conclusions**, not reproduce or cite every standard.

- Requiring a list of all definitions and standards can be **redundant** and **administratively burdensome**, especially where **no regulated features** (e.g., wetlands, watercourses) are affected.

Previous AUC Practice and Precedents

Historically, the AUC has:

- Accepted **EEs without demanding exhaustive lists of technical standards** unless there is a specific dispute about methodology or findings.

- Focused on whether the **potential adverse environmental effects** are reasonably described, not whether the proponent listed every directive consulted in forming conclusions.

Overreach into AEPA Jurisdiction

The requirement to list all standards used, may:

- **Blur jurisdictional boundaries**, implying that AUC approval requires AEPA wetland-level compliance—even where **no disturbance or approval trigger** exists.

- This could be seen as **administrative overreach**, especially in the case of non-regulated impacts.

Environmental Evaluation (EE) ≠ Wetland Regulatory Submission

Statutory Framework – Alberta Wetland Policy

- **Water Act, RSA 2000, c W-3**, and **Alberta Wetland Policy (2013)**
  Wetland assessments under this policy are only **triggered when an activity will disturb a wetland**. Otherwise, submission of delineation standards such as the **Alberta Wetland Identification and Delineation Directive (AWIDD)** is **not legally required**.

Alberta Environment and Protected Areas (AEPA):

- AEPA, not the AUC, is the **regulatory authority** on wetlands.
- AUC's environmental evaluation is **not equivalent to a Water Act approval request**.

Implication:
Unless a **regulated wetland disturbance** is proposed, the **AWIDD is not mandatory** in the AUC's EE context. Requiring citation of it regardless of impact **exceeds the scope** of the Commission's mandate.

Judicial Principles on Procedural Reasonableness

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- A rule or administrative requirement must be **reasonable, justified, and proportionate** to its purpose.
- Overly rigid or irrelevant demands **not grounded in legislation** may be deemed **unreasonable**.

Relevance:
Mandating the listing of standards such as AWIDD **in all cases**, including when no wetlands are affected, may violate the requirement of **reasonable, contextual administrative decision-making**.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (CanLII), [2019] 4 SCR 653, <https://canlii.ca/t/j46kb>, retrieved on 2025-05-17

Redundancy and Administrative Burden

Red Tape Reduction Act, SA 2019, c R-8.2

- Requires Alberta regulators to reduce unnecessary administrative burdens in permitting and regulatory procedures.

- Any reporting requirement that does **not contribute to decision-making or public interest evaluation (enable economic growth, innovation and competitiveness and facilitate a strong investment climate in Alberta)** may be deemed excessive.

Relevance:
Requiring exhaustive citation of every environmental standard—even when no regulated feature is affected—violates the intent of Alberta's **red tape reduction legislation**.

7. SP22

IF APPLICABLE, Using the current version of the Agricultural Regions of Alberta Soil Inventory Database (AGRASID), describe the agricultural capability of soils intersecting the project footprint as provided in the spring-seeded small grains (SSSGRAIN) attribute of the Land Suitability Rating System (LSRS) table. Provide a table showing the amount of area for each LSRS class impacted by the project in hectares (e.g., 80 hectares of Class 2).

Adding IF APPLICABLE because in some cases the land use designation, land use policy, or applicable municipal bylaws prohibit agricultural use. In such instances, reporting agricultural capability based on the LSRS classification may not be required or relevant to the project's land use context.

Land Use Zoning and Bylaws May Preclude Agricultural Use

Municipal Government Act (MGA), RSA 2000, c M-26

- **Section 640(1)**:
  Authorizes municipalities to adopt land use bylaws that regulate and prohibit particular uses of land or buildings.

- **Section 616(b)**:
  Defines "development" to include a change in use of land or buildings,

reinforcing that **land use controls override theoretical land capability**.

Implication:
If land is zoned **Industrial**, **Urban Reserve**, or **Utility Corridor** and **agricultural use is either prohibited or not contemplated**, and therefore LSRS ratings (which assess agricultural potential) **are not relevant**.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- The Supreme Court emphasized:

  "A decision must be based on relevant evidence and must not be burdened by irrelevant procedural obligations." (paras 85–88)

Implication:
Mandating LSRS tables where **agriculture is prohibited by law or policy** would be **procedurally unreasonable**.

Alberta Agriculture and Irrigation – LSRS Overview

- LSRS is a **predictive tool** used "**only to assess lands in active or intended agricultural use**."

- Not designed for non-agricultural development assessment or land designated for urban/industrial use.

Implication:
Official technical guidance limits LSRS applicability to **lands actively or potentially farmed**. Not relevant in **non-agricultural land use designations**.

8. SP23

IF APPLICABLE, for the project footprint, identify whether:
a) The project lands contain irrigation infrastructure.
b) The project lands are within an irrigation district. If so, whether:
The project has been discussed with the applicable irrigation

district.
Irrigation acres (either permanent, terminable or annual) are or have been assigned to the project lands.
An application for water rights or irrigation acres has been made for the project lands.

c) The landowners have obtained a Private Irrigation Water Licence for irrigating the project lands.

Add IF APPLICABLE, because this requirement may not be applicable in cases where the project lands are located outside of an irrigation district, are not used for irrigated agriculture, contain no irrigation infrastructure, and where no irrigation rights or water licences have been issued or applied for. In such cases, a confirmation of non-applicability should suffice.

Water Act, RSA 2000, c W-3

- Requires a licence or approval only when **diverting or using water for a defined purpose**, including irrigation.

🔹 **Implication**:
If the land **has not been licensed for irrigation**, and no water diversion is proposed, **no legal trigger** exists under the Water Act, and the AUC **cannot require reporting beyond relevant water rights**.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- The Supreme Court emphasized that **administrative decision-makers must avoid imposing obligations that are not relevant or justified** in context.

- **Quote**:

> "An administrative decision must be based on internally coherent reasoning that reflects the statutory framework. Requirements must relate to the purpose of the decision being made." (paras 15,62,77–88)

Application:
Requiring irrigation-related data **where no irrigation exists** violates this principle, especially if it burdens the applicant without serving the public interest or regulatory purpose.

Red Tape Reduction Act, SA 2019, c R-8.2

- Requires regulators to **reduce unnecessary administrative obligations** on applicants.
- "Regulators must ensure that administrative processes are efficient, proportionate, and do not create unnecessary regulatory burden."

Relevance:
Requiring irrigation information **where irrigation is not present** is an example of redundant reporting and contradicts Alberta's legislative mandate to **streamline regulation**.

Municipal Government Act (MGA), RSA 2000, c M-26

- **Section 640(1)**:
  Authorizes municipalities to adopt land use bylaws that regulate and prohibit particular uses of land or buildings.

- **Section 616(b)**:
  Defines "development" to include a change in use of land or buildings, reinforcing that **land use controls override theoretical land capability**.

Relevance:
If a site is designated **for industrial, utility, or solar development**, and agriculture is not a permitted use, **irrigation status becomes irrelevant**, further supporting the "IF APPLICABLE" qualifier.

9. SP25

IF APPLICABLE, Submit an agricultural impact assessment if any LSRS Class 1 or Class 2 land is reported within the project footprint, or if any Class 3 land is reported within the project footprint and the project is within a municipality identified in "Schedule

1 - Class 3 Land Municipalities” in the Electric Energy Land Use and Visual Assessment Regulation.
An agricultural impact assessment must include a soils component and a description of the current and proposed agricultural activities. The AUC requests the following information for inclusion in an agricultural impact assessment:

Soils component
a) Describe all soil series within the project area and report all potential impacts to: Soil quality (i.e., compaction, rutting, salinity, sodicity, fertility, contamination, clubroot). Soil quantity (i.e., wind erosion, water erosion). Hydrology and hydrogeology (i.e., topography, soil drainage, depth to groundwater). b) Describe how potential impacts to soil quality, quantity, hydrology and hydrogeology will be adequately mitigated during construction, operation and reclamation. c) Describe all earthworks (e.g., stripping and grading) planned for the project, including the following information: Methodology to anchor structures (e.g., screw piles, concrete footings). The extent of stripping and grading, with an estimate of the area of agricultural land impacted. Description of how these activities have been reduced in both extent and intensity (as practical) to protect the quality, quantity and hydrology of impacted soils. Description of how and where stripped soils will be stockpiled and what steps will be taken to preserve the quality and quantity of stockpiled soils prior to project reclamation. Description of how soils will be returned to preserve the quality, quantity and hydrology of the disturbed soils.

Current and proposed agricultural activities
d) Describe the current agricultural activity within the project lands (e.g., crop rotation, grazing regime) and typical yield, revenue or other applicable measure of productivity for the agricultural activities on the project lands. Comment on any constraints to co-locating the current agricultural activities within the project lands and any project alterations, upgrades or specialized equipment necessary to maintain the current agricultural activities. Describe how the performance of the proposed agricultural activities will be reported and monitored.
e) If the current agricultural activities are not feasible, explain why. Provide a proposal for co-locating alternative agricultural activities (e.g., crops and/or livestock) with the proposed project, including: The specifics of the co-located alternative agricultural activities including sufficient details to demonstrate the feasibility of such an agricultural system (e.g., cropping proposal, availability of forage, stocking rates, specialized equipment, animal welfare needs, water requirements and sources). The forecasted timing, expected production (yield, revenue or other applicable measure of productivity) and marketability of the agricultural products of the co-located alternative agricultural system. If other practices are being considered that support agriculture (e.g., cover crops for soil health). Compare the expected productivity of the co-located alternative agricultural system to the productivity of the current agricultural activity within the project lands (i.e., response to request SP25[d]) and express it as a percentage of the current productivity. f) Describe how the performance of the co-located agricultural activities will

be evaluated over the course of the project life and the potential for changes to the agricultural activities in the event of poor productivity performance.

Adding “IF APPLICABLE” because in some cases the land use designation, land use policy, or applicable municipal bylaws prohibit agricultural use. In such instances, reporting agricultural capability based on the LSRS classification may not be required or relevant to the project’s land use context.
(same as SP23 reason.)

Municipal Government Act (MGA), RSA 2000, c M-26

- **Section 640(1)**:
  Authorizes municipalities to adopt land use bylaws that regulate and prohibit particular uses of land or buildings.

- **Section 616(b)**:
  Defines “development” to include a change in use of land or buildings, reinforcing that **land use controls override theoretical land capability**.

Implication: If the land is zoned for **industrial, utility, or urban purposes**, agricultural use is **prohibited or not contemplated**, making LSRS-based agricultural impact assessments **inapplicable**.

Supreme Court of Canada – Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- The Court emphasized that administrative decisions (including procedural requirements) must be **reasonable**, **contextual**, and **not impose irrelevant burdens**.

> “Requirements imposed must bear a rational connection to the purpose and subject matter of the decision and be responsive to the specific context.” (paras 85–88)

Relevance: Mandating agricultural assessments **where agriculture is not a legal or permitted use** violates *the p*rinciples of **reasonable and contextual administrative procedure**.

Red Tape Reduction Act, SA 2019, c R-8.2

- Requires regulators to **reduce unnecessary administrative obligations** on applicants.
- "Regulators must ensure that administrative processes are efficient, proportionate, and do not create unnecessary regulatory burden."

Application: Where the land is zoned non-agricultural, **requiring detailed productivity models, grazing regimes, and co-location scenarios is disproportionate**, violating the province's own red tape reduction laws.

10. SP33

Submit a signed renewable energy referral report from Alberta Environment and Protected Areas Fish and Wildlife Stewardship (AEPA-FWS). If the applicant is unable to provide a renewable energy referral report at time of application, the applicant must clearly identify the reason and provide details of its status.

Removed, "both the Renewable Energy Project Submission report, and".
Added, "If the applicant is unable to provide a renewable energy referral report at time of application, the applicant must clearly identify the reason and provide details of its status."

Because of the below reasons:

1. **The AUC does not conduct primary environmental evaluations nor is it mandated to form its own independent conclusions on environmental matters.** The Commission's statutory role, pursuant to the *Hydro and Electric Energy Act* and the *Alberta Utilities Commission Act*, is to determine whether a proposed electric power plant is in the **public interest**, balancing economic, social, and environmental considerations based on **substantiated evidence and expert reports**.

2. **AEPA is the competent authority with the statutory mandate, technical expertise, and qualified personnel (including Professional Biologists) to assess environmental impacts**, including wildlife, wetlands, habitat fragmentation, and cumulative effects. Therefore, AEPA 's Renewable Energy Referral Report constitutes the authoritative environmental review for power plant projects in Alberta.

3. In the absence of a signed AEPA referral report at the time of application, the applicant's obligation is limited to transparently reporting the **status and**

justification for the delay in obtaining the report.

4. **The AUC should refrain from issuing its own environmental interpretations or conclusions** where the AEPA or other competent agency has not yet provided their input. Instead, the AUC's role is to **defer to the findings and professional recommendations** of the AEPA-FWS or other qualified experts when evaluating the environmental component of the public interest.

Hydro and Electric Energy Act (HEEA), RSA 2000, c H-16

- **Section 11**: Requires AUC approval for power plant construction but does **not mandate the AUC to conduct original environmental assessments**.

- The AUC's environmental evaluation is based on a **weighing of external evidence**, not its own expert review.

Alberta Utilities Commission Act, SA 2007, c A-37.2

- **Section 17**: The AUC must determine whether approval is **in the public interest**, considering "the social, economic, and environmental effects of the project."

Key Point: The AUC should **rely on evidence from environmental regulators and experts**, rather than performing its own ecological impact or wildlife impact modelling.

Environmental Protection and Enhancement Act (EPEA), RSA 2000, c E-12

- Assigns responsibility for environmental assessment, species protection, and cumulative effects analysis to **Alberta Environment and Protected Areas (AEPA)**.

Implication: AEPA, and specifically its **Fish and Wildlife Stewardship (FWS)** division, is the **competent statutory body** for environmental and biodiversity-related evaluations, not the AUC.

Supreme Court of Canada – *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 (para 77–85)

- Regulatory bodies must **rely on qualified expertise** and avoid issuing conclusions that **exceed their statutory or institutional capacity**.

Application: The AUC must **defer to AEPA** when no in-house expertise exists on wildlife impacts, wetlands, or habitat connectivity.

11. SP38

Notification Radius Requirement for Solar Power Plant:
≥ 10 MW Solar Power Plant – Urban Setting

Notification must be provided to the **first row of occupied properties** adjacent to the project boundary, and to the municipality in which the project is located or adjacent.

Reasoning Behind the Change:

The proposed change recognizes the **unique characteristics of urban environments**, where land parcels are **smaller, closely zoned, and regulated through municipal land use planning frameworks**. Limiting notification to the first row of occupied properties:

1. **Aligns with Municipal Notification Practices**
   Under the *Municipal Government Act*, municipalities typically notify only **adjacent landowners** for development permits. Harmonizing AUC notification practices with municipal procedures avoids **regulatory duplication** and supports coordinated approvals.

2. **Focuses on Directly and Adversely Affected Stakeholders**
   The AUC's public interest mandate under the *Alberta Utilities Commission Act* emphasizes engagement with those who may be **directly and adversely affected**. Impacts from solar facilities (e.g., construction disturbance, visual presence) are typically limited to **immediate neighbours** in urban settings.

3. **Supports Regulatory Efficiency**
   Urban solar projects face greater land constraints and typically undergo **extensive municipal planning review**. Reducing the notification radius avoids unnecessary delay and lowers the **administrative burden on applicants, the**

Commission, and stakeholders, while preserving fairness.

4. **Low Environmental and Nuisance Impact**
   Solar facilities do not generate emissions or significant operational noise, and visual impacts are **mitigated by fencing, landscaping, or adjacent development**. Impacts are **localized**, justifying a notification scope confined to the immediately adjacent row of occupied properties.

5. **Encourages Urban Renewable Development**
   This change supports Alberta's **climate and renewable energy goals** by **removing disproportionate procedural barriers** for solar projects in urban centres, encouraging clean energy adoption near demand centres.

Notification Requirement (Rural Setting):

- **< 10 MW solar power plant – Rural:** 400 metres
- **≥ 10 MW solar power plant – Rural:** 400 metres

1. **Proportionality to Actual Impact Radius**
   For rural solar power projects, the **direct physical and environmental impacts** of both <10 MW and ≥10 MW facilities—including noise, glare, and traffic—are typically **localized within 200 to 300 metres** of the project boundary. A 400-metre notification radius is:
   - Scientifically and operationally **sufficient** to capture all stakeholders with a realistic potential for adverse impact;
   - **Proportional** to the low-impact nature of solar generation infrastructure, which has **no emissions, low operational noise**, and no moving parts.
2. **Regulatory Efficiency and Red Tape Reduction**
   Maintaining an 800-metre radius for ≥10 MW rural solar projects captures **many stakeholders who will not be directly affected**, leading to unnecessary procedural delays, speculative objections, and increased costs. A 400-metre radius:
   - Focuses regulatory resources on **relevant landowners**;

- **Streamlines the application process** in line with Alberta's red tape reduction objectives;

- Encourages timely development of renewable energy in rural Alberta.

3. **Consistency with Best Practices and Risk-Based Approaches**
   Jurisdictions in Canada and the U.S. increasingly apply **tiered or risk-based notification thresholds** based on project type and expected impact. A 400-metre standard for rural solar projects reflects:

   - The **predictable and benign operational profile** of solar facilities;

   - The fact that **other energy projects** with higher impact (e.g., wind turbines or substations) may require larger radii, but solar does not warrant the same scope.

4. **Avoids Disproportionate Burden on Landowners and Developers**
   In rural areas, an 800-metre notification radius can encompass dozens of landowners, many of whom have **no visible line of sight to the project** and experience **no construction or operational effects**. A 400-metre radius respects the **reasonable expectations of landowners** and improves fairness in regulatory engagement.

Part 1: Urban Setting — "≥ 10 MW Solar Power Plant: First Row of Occupied Properties"

Red Tape Reduction Act, SA 2019, c R-8.2

- Regulatory requirements must be **evidence-based and efficient**.

- Notification should be **scalable to project type and potential for impact**.

Part 2: Rural Setting — "< or ≥ 10 MW Solar Power Plant: 400 Metres"

Legal Principles – Targeted Procedural Rights

Dene Tha' First Nation v. Alberta (Energy and Utilities Board), 2005 ABCA 68

> "Procedural rights must match the nature and scale of the impact... Not all affected parties are equally impacted." (para 34)

Land Use and Practical Considerations

- In rural Alberta, an 800-metre radius often **includes dozens of stakeholders across multiple quarter-sections**:
    - Many with **no visual, construction, or traffic impact**.
    - Can lead to **speculative objections** and **delayed proceedings**.

A 400-metre radius is:

- Scientifically justified;
- Procedurally fair;
- Consistent with AUC's discretion under **Section 17 of the AUC Act**;
- Aligned with public interest and efficiency.

12. SP40

Remove Request: ". If the municipality declined to complete the municipal engagement form, confirm what steps were taken to follow up with the municipality, including submitting copies of correspondence."

As described in Section 6.3 of Appendix A1, confirm that the municipal engagement form was provided to the affected municipality to complete for a minimum of 30 days, before filing the application. If the municipality completed the municipal engagement form, provide this form.

Reasons for the Removal:

The requirement to submit evidence of follow-up correspondence if a municipality does not complete the engagement form has been removed because:

1. **Municipal Participation is Voluntary**
   Under Alberta's land use and intergovernmental engagement framework, municipalities are **not obligated to respond** to engagement forms. Requiring the applicant to document follow-up efforts imposes **unnecessary administrative burden**, especially where municipalities decline to participate.

2. **Proponent's Duty Ends with Good Faith Offer of Engagement**
   AUC Rule 007 and the *Municipal Government Act* only require that applicants **demonstrate reasonable efforts** to engage municipalities. Providing the form and allowing 30 days satisfies that duty.

3. **Avoids Procedural Delays for Applicant**
   Applicants should not be penalized or delayed due to **non-responsiveness by municipalities**. Removing the follow-up documentation requirement supports timely project advancement while preserving transparency.

4. **Regulatory Efficiency and Clarity**
   Focusing solely on whether the form was issued with the required notice period avoids ambiguity and streamlines compliance.

Municipal Participation in Engagement Is Voluntary Under Law

Municipal Government Act (MGA), RSA 2000, c M-26

- **Section 618.4(3)** :
    - Municipalities are **empowered to make land use decisions** through their own bylaws, but **are not obligated to participate** in provincial regulatory processes initiated by external applicants.

Implication:
No statutory provision compels a municipality to complete engagement forms provided by AUC-regulated applicants. Requiring evidence of attempted follow-up to a non-mandatory response imposes **an unjustified administrative burden**.

Administrative Law – Procedural Reasonableness

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- Administrative decision-making must reflect **reasonable, proportionate procedures** that are tailored to the context.

> “Procedural rules must not impose unnecessary burdens or formalities that are not justified by the purpose of the decision.” (paras 15,62,77–85)

Application:
Imposing a follow-up documentation requirement when municipal response is **optional by law** contradicts the reasonableness standard.

Regulatory Efficiency and Red Tape Reduction

Red Tape Reduction Act, SA 2019, c R-8.2

- Regulators must eliminate **procedural duplication and non-value-adding administrative requirements**.

Relevance:
Tracking correspondence to a non-mandatory form adds paperwork but **does not meaningfully inform AUC’s public interest assessment**. Its removal enhances compliance clarity and aligns with Alberta’s regulatory modernization agenda.

13. SP41

IF APPLICABLE, Describe how the applicant engaged with potentially affected municipalities to modify the proposed power plant or to mitigate any of its potential adverse impacts to the municipality, prior to filing the application.

Added “IF APPLICABLE”, This requirement may not be applicable in cases where the project poses no reasonably foreseeable adverse impacts to the municipality, or where the development permit has already been reviewed and approved by the municipality in accordance with its land use bylaws and policies. In such instances, a statement confirming the absence of identified municipal concerns or the existence of municipal development approval may suffice.

Municipal Government Act (MGA), RSA 2000, c M-26

- **Section 640(1)**: Municipalities regulate land use via bylaws, including development permits and discretionary uses.

Implication:
If a project already complies with local zoning and has been approved municipally, the requirement to engage further on mitigation of "adverse impacts" is **procedurally redundant**.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 15, 62, 77–85)

- The Supreme Court of Canada established that:

  "Administrative decision-makers must adopt procedures that are reasonable in the context of the decision… Extraneous or inflexible procedural requirements that do not contribute meaningfully to the decision are not lawful." (paras 15, 62, 77–85)

Application:
Requiring detailed municipal mitigation engagement for every project, regardless of actual impact or existing approvals, violates the **principle**.

Red Tape Reduction Act, SA 2019, c R-8.2

- Alberta law requires that regulatory processes:
  - Be **proportionate** to the public interest,
  - Eliminate **non-value-added administrative steps**,

Relevance:
Where a project has already been **vetted and approved by a municipality**, additional engagement obligations are **unnecessary duplication**.

14. SP42

Remove Request: The name and land location of the person(s).

Provide a feedback summary table to identify all persons who expressed a concern(s) about the project. For each person, that includes the following information:
The specifics of the concern(s).
Steps taken to try and resolve the concern(s).
Whether the concern(s) was resolved.

The AUC already requires submission of a complete stakeholder list identifying landowners and occupants within the prescribed notification radius. Repeating personal identifiers in the feedback summary table introduces **unnecessary duplication** of information already disclosed and increases administrative burden without regulatory benefit.

The **content of the concern and the efforts made to address it are materially relevant** to the AUC's consideration—not the personal identity or land location of the person raising the concern. The focus should remain on the **substance and resolution** of the issues, not on the identity of the individual.

If individuals who are not **directly and adversely affected**, and therefore do not qualify as **local interveners** under Section 9 of the *Alberta Utilities Commission Act*, are included by name, the risk arises that the AUC may **improperly give weight to non-local or speculative concerns**, which may **unreasonably delay project decisions**. The AUC must avoid expanding the scope of affected persons beyond those with a legitimate interest in the proceeding.

Excluding names and land locations helps streamline the record and focuses attention on **unresolved, material issues** rather than on personal identifiers. This supports the AUC's mandate to conduct efficient, evidence-based proceedings under the *AUC Rules of Practice* and *Rule 001*.

Alberta Utilities Commission Act, SA 2007, c A-37.2

- **Section 9(2):**

  "A person who may be directly and adversely affected by the Commission's decision... is entitled to notice of and the opportunity to participate in a hearing."

Implication:
The AUC's proceedings are limited to **persons with a legitimate and material interest**. Including names of non-local or speculative commentators risks expanding the proceeding **beyond its lawful scope**.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (paras 82–90)

- The Supreme Court of Canada emphasized:

  "Administrative decision-makers must focus on matters that are relevant and material to the decision before them." (paras 82–90)

Application:
The **content of stakeholder concerns**, and whether they were addressed, is **material**. The **name or location of the person** is **not**, unless their status as a directly and adversely affected party is in question.

Red Tape Reduction Act, SA 2019, c R-8.2

- Encourages elimination of **redundant reporting and documentation** where no added regulatory value exists.

Application:
Identifying names and land locations already disclosed in stakeholder notification lists serves **no independent value** in the engagement summary table. Removal reduces duplicative entries.

Opposing Fully:

15. SP34

Removed: “Provide the”
Added: “If a Historical Resources Act approval has been obtained, provide a copy of it.”
Confirm that a Historical Resources Act approval has been obtained or has been applied for. If a historic resource impact assessment is required, briefly describe any known historical or archaeological sites, palaeontological sites, or traditional use sites of a historic resource nature. If a Historical Resources Act approval has been obtained, provide a copy of it.

1. **Legal Timing Under the Historical Resources Act**
   The *Historical Resources Act*, RSA 2000, c H-9, **does not mandate obtaining HRA approval prior to regulatory approval** by the Alberta Utilities Commission (AUC). Instead, the legal requirement is to obtain HRA clearance **prior to any land surface disturbance**, including excavation or construction. Thus, requiring the approval at the application stage **exceeds statutory obligations** and creates unnecessary regulatory burden.

2. **Landowner Consent and Invasiveness of HRIA**
   In many cases, the Historic Resource Impact Assessment (HRIA) process involves **invasive subsurface testing**, including deep coring, mechanical excavation, or manual trenching. **Landowners may withhold consent** to conduct such intrusive testing prior to certainty of AUC approval. Forcing applicants to undertake HRIA work pre-emptively could violate land access rights or damage landowner relationships.

3. **Resource Efficiency and Regulatory Sequencing**
   Requiring HRA approvals in advance of AUC approval creates **inefficient use of time and public resources**, particularly for Alberta Culture and Status of Women’s Historic Resources Management Branch. These reviews are **best conducted post-approval**, when a project is confirmed to proceed, thereby avoiding unnecessary assessments for projects that may not be approved.

4. **Avoiding Premature Environmental Disturbance**
   Forcing an HRIA prior to AUC approval risks creating **unnecessary environmental disturbance** or triggering stakeholder concerns regarding premature ground disturbance, contrary to principles of responsible project development and environmental stewardship.

Historical Resources Act (HRA), RSA 2000, c H-9

Section 37(2):

> "No person shall... disturb or alter any land... unless a Historical Resources Impact Assessment has been conducted and written approval obtained."

Key Interpretation:

- HRA approval is required **only before surface disturbance**, **not before AUC regulatory approval**.
- The Act makes **no reference to timing in relation to energy regulatory processes** like AUC approvals.

Land Access and Consent Issues with Premature HRIA Work

- **HRIA methods** often include:
    - Deep testing,
    - Shovel testing or hand trenching,
    - Mechanical excavations.
- These activities may require **landowner consent**, and such consent is often **withheld until AUC approval** is granted.

Surface Rights Act, RSA 2000, c S-24

- Surface rights must be respected unless an operator has obtained either:
    - A right of entry order, or
    - Express landowner consent.

Application:
Requiring HRIA field work before AUC approval can:

- **Violate landowner rights**,
- Damage land access negotiations,
- Breach regulatory ethics.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (paras 82–90)

- Administrative obligations must be **proportionate** and **contextually appropriate**.

> "A decision-making framework that demands irrelevant or premature compliance... may be deemed unreasonable." (paras 82–90)

Relevance:
Requiring HRA approvals **before project viability is confirmed** is **disproportionate**, creating inefficiencies and unnecessary cost for projects that may never proceed.

Policy Guidance – Alberta Culture and Status of Women (HRA Approvals)

- The **Historic Resources Management Branch** explicitly states:

> "Historical Resources Act approval is required prior to any land surface disturbance."

- Nowhere does the policy require HRA approval **prior to applying to other regulators** such as the AUC.

Relevance:
This supports a **phased approach**, where HRA is completed **only after regulatory approval** confirms the project will proceed.

Environmental Protection Principles – Avoiding Premature Disturbance

Environmental Protection and Enhancement Act (EPEA), RSA 2000, c E-12

- Prohibits unauthorized disturbance of protected resources **without** formal approval.

Implication:

Forcing HRIA fieldwork on speculative projects can:

- Lead to unnecessary land disturbance,
- Trigger community/stakeholder concerns,
- Contradict **the precautionary principle** and **best environmental practices**.

16. Checklist Section

Add in Section 4.2: If the proposed power plant has a total generating capacity of less than 10 megawatts (MW), the Alberta Utilities Commission (the Commission) may exercise discretion and request supplementary information as needed, rather than requiring the applicant to complete all Solar Power Plant information requirement items from SP1 to SP30 in full.

This approach reflects the Commission's recognition that smaller-scale power plants, particularly those below the 10 MW threshold, typically have **reduced environmental, technical, and stakeholder complexity**, and do not warrant the same level of submission detail as large-scale generation projects.

Applicants may be asked to provide **targeted supplementary information** sufficient to allow the Commission to determine whether the project is in the public interest.

Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (para 77–85)

- The Supreme Court of Canada stated:

  "Administrative decision-makers must use procedures that are proportionate, context-sensitive, and responsive to the record." (paras 83–85)

Application:
It is **reasonable and lawful** to reduce reporting burdens where **risk and complexity are demonstrably lower**.

Red Tape Reduction Act, SA 2019, c R-8.2

- "Regulatory requirements must be proportionate and must not impose unnecessary administrative burden."

Implication:
Requiring SP1–SP30 for all solar projects regardless of size is inconsistent with Alberta's **red tape reduction directive**.

17. Exemption Section
Replace with: Exemption 4.1.2 Power plants less than Five megawatt

Replace with: If the power plant is less than Five MW, the owner may proceed without filing an application if the requirements of subsection 3(3) of the Hydro and Electric Energy Regulation are met.

Due to the above change Section 4.2 changes to 4.2 Checklist applications for new power plants equal to or greater than Five megawatt and less than 10 megawatts that are not proposed as micro-generation units under the Micro-generation Regulation.

The **Micro-generation Regulation** already permits generation systems up to **5 MW** for own-use customers without requirement for AUC application.

The **Isolated Generating Units Exemption Regulation** allows up to **10 MW** for isolated systems without AUC approval.

Raising the exemption threshold to **5 MW** would reduce unnecessary regulatory burden on small-scale commercial or community solar facilities that have **minimal environmental and stakeholder impact**, aligning with the **Government of Alberta's Red Tape Reduction Act (RTRA) and renewable energy facilitation objectives**.

Micro-Generation Regulation Supports 5 MW Threshold

Micro-generation Regulation, Alta Reg 27/2008, Section 1(1)(e)

- Defines micro-generation as systems:

  "That do not exceed 5 megawatts of nominal capacity."

Key Implication:
The Government of Alberta recognizes **5 MW as an appropriate threshold** for **own-use and low-impact systems**, requiring no AUC approval under micro-generation rules.

Red Tape Reduction Act, SA 2019, c R-8.2

- "Streamline regulatory requirements and remove processes that impose unnecessary costs and delays."

Application:
Exempting <5 MW projects aligns with provincial policy to:

- Reduce permitting barriers,
- Facilitate clean energy near load centres,
- Encourage **commercial and community solar** without burdensome red tape.

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Qualifications

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