

Land Conservation & Development Commission

Presented by Commissioner Hanley Jenkins

Co-Chair Solar Rules Advisory Committee

Salem, Oregon June 22, 2011

Project Purpose

- **Help State land use policy makers become better informed about the relationship between commercial solar energy development and commercial farm and ranch activities.**
- **Consider the process for siting large scale, commercial solar energy generation facilities on Oregon's farm and ranch lands.**
- **Consider if existing rules address the right questions to encourage a proper balance between farm and ranch land protection and renewable energy development.**
- **Discuss statewide land use policy not specific projects.**

Three Existing Permitting Possibilities

- **Conditional Use Permit** – Small projects. Decision made by local planning commission after public hearing.
- **Exception** – Medium-Sized projects. Decision made by local elected officials after receiving planning commission recommendation and multiple public hearings.
- **Energy Facility Siting Council (EFSC)** – Largest projects. State body holds public hearings, applies state and local land use laws, as well as other laws, and makes decision.

Existing Rules – Agricultural Land

- **OAR 660-033-0130(5)** Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:
 - (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- **OAR 660-033-0130(17)** A power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to OAR chapter 660, division 4...
- **OAR 660-033-0130(22)** A power generation facility shall not preclude more than 20 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4....

Rules Apply to Something Like This:



Not Something Like This:



Rulemaking Principles

- **Rules should be amended only if:**
 - **Shown to inadequately protect farm and ranch land; and/or**
 - **Shown to unreasonably regulate the siting of solar facilities on farm and ranch land.**

Facts About Photovoltaic Solar

- Requires About 7.5 Acres Per MW of Capacity.
- Needs Flat Land Near Transmission Facilities.
- Uses Very Little Water & Creates Very Little Noise.
- Has Few Operational or Maintenance Demands after Installation.



Example: Cimarron Solar Project

Cimarron, New Mexico

250-Acres

30 MW Capacity

Energy 60,000 Mwh/yr

Draft Rule Principles

- The actual agricultural soil capability for the project site determines the applicable criteria, not the predominant soils on the subject tract.
- Establishes a three category hierarchy of high-value farmland soils, arable soils and nonarable soils.
- Highest priority is given to lands with the least value for agriculture and lowest importance for wildlife habitat.
- Additional criteria for siting projects on high-value and arable soils off-set by fewer criteria and the possibility for much larger projects on nonarable soils.

Summary of Soil Hierarchy

High-Value Farmland Soils	Highest Priority for Protection. 12-acre Project Threshold. EESE and Cumulative Effects.
Arable Farmland Soils	Second Highest Priority for Protection. 20-acre Project Threshold. EESE.
NonArable Soils	Lowest Priority for Protection. 100-acre Project Threshold. Wildlife Consideration.

High-Value Farmland Soils



High-Value Farmland Soils

- Driven by Soils, Not Tract. —————> ■ New Approach, New Opportunities.
- Projects limited to 12-acres without an exception. —> ■ Same as Existing Rule.
- Creates Performance Standards. —> ■ New Requirement. Best Management Practices.
 - On-site Ag impacts.
 - Soil Compaction.
 - Soil Erosion.
 - Noxious Weed Abatement.
- Requires EESE Analysis. —————> ■ New Requirement. Could Make it more challenging to site on high-value soils.
 - Economic.
 - Environmental.
 - Social.
 - Energy.
- Requires Cumulative Impacts Evaluation. —> ■ New Requirement. Could Make it more challenging to site on high-value soils.

Why Arable and NonArable?



Determining Arable or NonArable

Certainties provided by rule language:

1. Cultivated Soils = Arable Soils
2. Class V-VIII & No History of Irrigation = NonArable Soils

All Other Lands = Local Discretion.

Arable Soils



Arable Farmland Soils

- Driven by Soils, Not Tract. —————> ■ New Approach, New Opportunities.
- Projects limited to 20-acres without an exception. —> ■ Same as Existing Rule.
- Creates Performance Standards. —> ■ New Requirement. Best Management Practices.
 - On-site Ag impacts.
 - Soil Compaction.
 - Soil Erosion.
 - Noxious Weed Abatement.
- Requires EESE Analysis. —————> ■ New Requirement. Could Make it more challenging to site on arable soils.
 - Economic.
 - Environmental.
 - Social.
 - Energy.

NonArable Soils



NonArable Soils

- Driven by Soils, Not Tract. → ■ New Approach, New Opportunities.
- Projects limited to 100-acres without an exception. → ■ Far Larger Than Existing Rule.
- Creates Performance Standards. → ■ New Requirement. Best Management Practice.
 - Noxious Weed Abatement.
- No EESE Analysis Required.
- Consideration of Wildlife Habitat. → ■ New Requirement. Proposed to Sunset after Five Years.

Solar Rule Wildlife Habitat Provisions

- **Designed to Consider Habitat Included in Local Plans and not Local Plans.**
- **Would rely on site specific data.**
- **Does not assume all sites will require mitigation.**
- **County is the arbiter.**
- **Proposed to Sunset January 1, 2016.**

To Sunset or Not to Sunset

- To Sunset.

