

Solar RAC

November 22, 2010

Land Conservation and Development
Commission

Project Purpose

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

Draft Rule Principles

- Specific to Photovoltaic technology.
- No development on HV Soils without an exception. Still possible to develop on HV Farmland if HV soils are avoided.
- Threshold for non HV cropland stays at 20-acres without an exception but with more robust alternative analysis and consideration of cumulative impacts.
- Threshold for Rangeland goes up from 20 to 50-acres without an exception with more robust alternative analysis and consideration of cumulative impacts.

Draft Rule Language OAR 660-033-0120

HV
Farm

All
Other

Uses

Utility/Solid Waste Disposal Facilities

R5, 17

R5, 22

Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation projects **or photovoltaic solar power generation projects**.

R5, 37

R5, 37

Wind power generation projects as commercial utility facilities for the purpose of generating power for public use by sale.

R5, 38

R5, 38

Photovoltaic solar power generation projects as commercial utility facilities for the purpose of generating power for public use by sale.

Draft Rule Language OAR 660-033-0130(38)

(38) For purposes of this rule a photovoltaic solar power generation facility includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores and/or transfers that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, and storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. A proposal for a photovoltaic solar power generation facility shall be subject to the following provisions:

Draft Rule Language OAR 660-033-0130(38)

- (a) No components of a photovoltaic solar power generation facility may be located on high-value farmland soils described at ORS 195.300(10) unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

Draft Rule Language OAR 660-033-0130(38)

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation the governing body or its designate must find that:

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices; and

Draft Rule Language OAR 660-033-0130(38)

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation the governing body or its designate must find that:

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads, dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices; and

Draft Rule Language OAR 660-033-0130(38)

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and

Draft Rule Language OAR 660-033-0130(38)

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval; and

Draft Rule Language OAR 660-033-0130(38)

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval, and

Draft Rule Language OAR 660-033-0130(38)

(E) The long-term environmental, economic, social and energy consequences resulting from the photovoltaic solar power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands of equal or lesser quality or lands that are not protected under statewide planning goal 3; and

Draft Rule Language OAR 660-033-0130(38)

(F) The cumulative effects of siting multiple photovoltaic solar power generation facilities in a single area of a county have been adequately considered and that the presence or possibility of multiple facilities in close proximity will not lead to negative effects on local farmers and ranchers.

Draft Rule Language OAR 660-033-0130(38)

(G) A photovoltaic solar 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. Expansion of an existing solar generation facility on the same tract or multiple projects pursued by the same developer(s) on lands with less than 1320-feet of separation shall be counted towards the 20 acre threshold.

Draft Rule Language OAR 660-033-0130(38)

- (c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(B),(C),(D), (E) and (F) are satisfied; and

- (A) A photovoltaic solar power generation facility shall not preclude more than 50 acres from use as a commercial agricultural enterprise unless an exception is taken pursuant to ORS 197.732 and OAR chapter 660, division 4. Expansion of an existing photovoltaic solar generation facility on the same tract or multiple projects pursued by the same developer(s) on lands with less than 1320-feet of separation shall be counted towards the 50 acre threshold.

Draft Rule Language OAR 660-033-0130(38)

(d) In the event that a solar power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(38)(b) and (c) the approval criteria of OAR 660-033-0130(38)(b) shall apply to the entire project.

Other Issues

Issue	Response
Clarify that the presence of a solar facility can not be used to justify a new exception for other uses.	Existing provisions of law are clear on this point. Please see OAR 660-004-0018() and OAR 660-004-0028
Consider requiring decommissioning plan and/or management and mitigation plan.	Needs likely to differ from project to project and county to county. Could be included as part of local process.
Buffer for farmland to avoid conflicts in future.	Needs likely to differ from project to project and county to county. Adequately addressing compatibility criteria should take this into account. Could become part of local review program.

Items For Discussion

Definition

HV Farmland Soils

Acreage Thresholds

Arable/Nonarable

Alternatives Analysis

Cumulative Impacts

Separation