

EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #3



TO: Solar Siting Rulemaking Advisory Committee Members
FROM: Adam Tate, Renewable Energy Planner
SUBJECT: Rulemaking Advisory Committee (RAC) Meeting Packet #3

Dear Solar Siting Rulemaking Advisory Committee Members,

Thank you again for bringing your diverse experience and expertise to this rulemaking process and for a great second RAC meeting in Burns. Our focus now turns to the Boardman/Hermiston area, and our third RAC meeting on Thursday May 30th. At this meeting we will have presentations from the Oregon Military Dept. on their relationship to solar energy and from ODOE on the Statewide Energy Strategy followed by small group discussions on the updated draft rules, and an update on Technical Advisory Committees from DLCD staff. As with our previous meetings, there will be an optional tour, details of which are still TBD but will be announced soon.

Desired Outcomes

- Shared understanding of Oregon Department of Energy's State Energy Strategy.
- Shared understanding of the Oregon Department of Military's work and its connection to photovoltaic solar power generation facilities siting.
- Technical Advisory Committee (TAC) update and future work.
- Review and discussion of draft Division 23 language.
- Review and discussion of remaining division outlines.

We look forward to hearing your thoughts and will create a meeting summary the week after the meeting.

RAC Meeting Packet Contents:

1. Cover Memo
2. Agenda
3. Summary from Second RAC Meeting
4. Updated Draft Division 23 Rule Outline
5. Table of specific provisions requesting RAC feedback

The meeting will be held in the Regional Training Institute Classroom, located at the Rees Training Center: 1778 A St, Hermiston OR 97838. To get onto the military base, please inform the staff at the gate that you are here for the DLCD Solar RAC meeting so they can let you in and give you directions to the building which is visible from the entrance. Try to arrive a few minutes early if possible as this process may stack up traffic a bit.

The meeting will run from 9:00 AM to 2:00 PM with a working lunch at noon provided by DLCD. Information on the caterer is coming soon. The Optional Tour will be from 2:00 to 4:00 PM, departing from Camp Rees.

For those of you who cannot attend in person, please use the following Zoom link: <https://kearnswest.zoom.us/j/83475090803?pwd=lowt1BVV0mfJTrgKLvdcbiBO924g4.1> Casaria Taylor will be providing support for the Zoom meeting. Casaria.taylor@dlcd.oregon.gov 971-600-7699.

Members of the public can livestream the meeting on the DLCD YouTube Channel [Oregon DLCD - YouTube](#)

For reference all statewide planning land use planning goals may be found [here](#). Information for this committee, including background information and meeting materials may be found on the Eastern Oregon Solar Siting project page [Department of Land Conservation and Development : Eastern Oregon Solar Siting Possibilities : Laws and Rules : State of Oregon](#).

Thank you,

Adam Tate

Renewable Energy

Planner

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AGENDA

Oregon Department of Land Conservation and Development (DLCD) - Solar Siting Rules Advisory Committee (RAC) Meeting

Date and Time

Thursday, May 30, 2024, from 9:00 am – 2:00 pm PT

- The meeting will be held in the Camp Rees Regional Training Institute Classroom, located at 1778 A St, Hermiston, OR. Lunch will be provided for RAC members.
- Members of the public can livestream the meeting at <https://www.youtube.com/@OregonDLCD>
- There will be an optional tour after the meeting from 2:00-4:00 pm departing from Camp Rees.

Public Outreach Event

DLCD will be hosting an open house the day before the RAC meeting on Wednesday, May 29, 2024, from 5:30 – 7:00 pm PT at the Port of Morrow Headquarters at 2 East Marine Drive, Boardman, Oregon 97818.

Solar Siting Rules Advisory Committee (RAC) Meeting Agenda

Time (PT)	Topic	Lead
9:00 – 9:15 am (15 min)	Welcome, Opening Remarks, and Agenda Review	Jamie Damon, Kearns & West Facilitator
9:15 – 9:40 am (25 min)	Presentation: Military Considerations and Solar	Department of Military
9:40 – 10:10 am (30 min)	Presentation: State Energy Strategy	Jillian DiMedio & Rob Delmar Oregon Department of Energy
10:10 am - 12:00 pm (110 min)	Division 23 Overview <ul style="list-style-type: none">• Presentation• Small group work	All



12:00 – 12:30 pm (30 min)	DLCD Staff Updates <ul style="list-style-type: none"> • Farm and Forest RAC • Cultural Resources RAC • Technical Advisory Committees <i>Working Lunch</i>	Jon Jinings, Adam Tate, Amanda Punton, Hillary Foote, Department of Land Conservation and Development
12:30 – 12:35 pm (5 min)	Remaining Divisions Outline Overview	Jon Jinings and Adam Tate, Department of Land Conservation and Development
12:35 – 1:05 pm (35 min)	Tabletop Discussions: Remaining Division Outlines	All
1:05 – 1:50 pm (45 min)	Report Out and Discussion <ul style="list-style-type: none"> • Division 23 • Remaining Division Outlines 	All
1:50 – 2:00 pm (10 min)	Closing and Next Steps	Jamie Damon, Kearns & West
2:00 pm	Meeting Adjourn	



Eastern Oregon Solar Opportunities Rulemaking Advisory Committee (RAC) Meeting Summary

April 18, 2024, RAC Meeting #2

Location: The Historic Central Hotel, Burns, Oregon, and Zoom Webinar. There was an optional sage grouse viewing tour that began at 5:00 am the next day.

RAC Member Attendees:

- Will Van Vactor, Crook County Community Development Director
- Elaine Albrich, Davis Wright Tremain
- Kimberly Peacher, Department of the Navy
- Brandon McMullen, Harney County Planning Director
- Commissioner James Williams, Lake County
- Michael Eng, Lostine Fire Wise
- Max Yoklic, New Sun Energy
- Andrea Kreiner, Oregon Association of Conservation Districts
- Jack Southworth, Oregon Cattlemen's Association
- Lauren Poor, Oregon Farm Bureau
- Mike Totey, Oregon Hunters Association
- Jack Watson, Oregon Solar+Storage Industries Association
- Dugan Marieb, Pine Gate Renewables
- Mark Lindley, Portland General Electric
- Emily Griffith, Renewable Northwest
- Bill Richardson, Rocky Mountain Elk Foundation
- Anahi Segovia Rodriguez, Verde
- Denise Stillwell, South Central Oregon Economic Development District
- Laura Tabor, The Nature Conservancy

Ex-Officio Attendees:

- Diane Teeman, Burns Paiute Tribe
- Amber McKernan, Oregon Department of State Lands
- Vice Chair Nick Lelack, Land Conservation and Development Commission
- Representative Mark Owens, Oregon State Legislature
- Jim Johnson, Oregon Department of Agriculture
- Jeremy Thompson, Oregon Department of Fish & Wildlife (ODFW)
- Dan Hubner, Oregon Department of Forestry
- Amber McKernan, Oregon Department of State Lands (DSL)



- Michael Freels, Oregon Department of Energy (ODOE)
- Todd Farmer, Oregon Military Department (OMD)
- Chad Higgins, Oregon State University (OSU)

DLCD Staff Attendees:

- Angie Brewer, Oregon Department of Land Conservation and Development (DLCD)
- Sadie Carney, Oregon Department of Land Conservation and Development (DLCD)
- Alexis Hammer, Oregon Department of Land Conservation and Development (DLCD)
- Dawn Marie Hert, Oregon Department of Land Conservation and Development (DLCD)
- Gordon Howard, Oregon Department of Land Conservation and Development (DLCD)
- Jon Jinings, Oregon Department of Land Conservation and Development (DLCD)
- Casaria Taylor, Oregon Department of Land Conservation and Development (DLCD)

Welcome, Opening Remarks, and Agenda Review

Jamie Damon, Kearns & West, introduced herself as a neutral third-party facilitator. She provided an overview of the hybrid meeting format and meeting logistics.

Forrest Katie, co-owner of the Central Hotel, introduced themselves and provided room and building logistics for those attending in person.

Diane Teeman, Chair of the Burns Paiute Tribe, introduced herself and went over the native history of the Burns Paiute Tribe and the area of Burns. Diane noted that she serves as the Culture and Heritage Department Director and as a tribal council member which includes the authority to speak on cultural matters. She expressed openness to future discussions and thanked the audience for their presence.

Oregon State Representative Mark Owens, District 60, introduced himself and noted that this meeting and the last RAC meeting were both in District 60. Rep. Owens acknowledged legislative efforts regarding solar and clean energy siting in Oregon, emphasizing the need to view siting as an economic opportunity to create local jobs and infrastructure. He highlighted the challenge of balancing this need with federal and agricultural land usage, expressing gratitude for discussions on land use regulations. Additionally, Rep. Owens noted collaborative efforts supported by developers, the Department of Agriculture, Tribes, and conservation organizations.

Presentation: Wildlife and Solar Siting

Jeremy Thompson, Oregon Department of Fish and Wildlife (ODFW), presented on habitat mitigation and solar siting in the state of Oregon relative to projected growth and climate change



impacts. Thompson went over the history of the development process for solar siting, noting that in the past developers were solely responsible for finding mitigation sites, but ODFW now seeks to actively engage in partnerships to identify suitable sites, such as connecting with land trusts and conservation districts. ODFW's goal is to locate areas of ecological significance that can withstand future climate changes. Thompson emphasized the importance of collaborative efforts and innovative solutions to address mitigation needs, even extending to public lands. The group had the following questions.

- RAC Member Question: What are some ways to incentivize developers to focus on those lower-category habitats? Are there any ways developers can think about working with those habitat categorizations to ensure that projects go to places with fewer wildlife conflicts?
 - *ODFW Response: Historically, it has been the developer's responsibility to locate a mitigation site and propose it. However, ODFW acknowledges the need for partnership to fulfill statutory obligations and meet climate goals. Therefore, the agency is actively seeking to facilitate partnerships, such as with land trusts and soil and water conservation districts, to integrate conservation efforts with development projects.*
- RAC Member Question: Regarding mitigation, is it on both public and private land? If it is on private land, is it usually accomplished through conservation, easement, or purchase? How does that work?
 - *ODFW Response: To date, all of ODFW's mitigation endeavors have exclusively taken place on private land. The agency has endeavored to establish partnerships with the Bureau of Land Management (BLM) regarding mitigation following the multi-use mandate. ODFW is diligently monitoring ongoing BLM rule changes and has initiated collaborations with the Department of State Lands during their planning phase, and is advocating for the inclusion of conservation leasing as a viable mitigation option. There is a necessity for innovative solutions to address the mitigation demand.*
- RAC Member Question: In regards to the sage grouse mitigation program, it was mentioned there's an exemption for agriculture. What exactly is exempted?
 - *ODFW Response: Broadly, that exemption allows all of the current agricultural use on private land so that these rules do not hinder agricultural production or agricultural operations. It recognizes that agricultural lands are extremely important to sage grouse.*
 - *DLCD Response: There have been concerns within our farming and ranching community regarding certain aspects of federal guidelines, particularly those discouraging the conversion of sagebrush habitat to agricultural use. Oregon does not regulate agricultural practices, agricultural use, especially within inclusive farming zones, is considered an outright use.*
- RAC Member Question: What are some examples of uplift actions?



- *ODFW Response: Spraying cheatgrass, cutting juniper, and reseeding desirable plants and species. Anything that increases the capacity of that landscape to hold wildlife or to provide those habitat characteristics for wildlife over time.*

Presentation: Developer Selection Process

Brian Walsh and Matt Hutchinson, MN8 Energy, presented on the developer selection process for solar. They provided an overview of the renewable energy market in Oregon, noting factors driving its growth and that, of all renewable formats, solar is the most popular in the state and nationwide. They went over the cluster study process, the current permitting process, and recommendations on how to make the permitting process as efficient as possible. The group had the following questions.

- RAC Member Question: What are the obstacles for data centers using more direct service, i.e., not using the grid and having a dedicated, renewable resource that serves a particular facility?
 - *MN8 Response: Data centers prioritize redundant power sources, typically maintaining a connection to the grid while seeking long-term contracts with specific projects, often through utilities. This is exemplified by data centers in Morrow and Umatilla counties, where developers assess factors like county support, land availability, and interconnection options to advance projects. Many projects aim to directly interconnect with Umatilla Electric Cooperative (UEC) systems to serve Amazon's load, with some considering proximity to Bonneville Power Administration (BPA) transmission lines for efficient power delivery.*
- RAC Member Question: Why is there difficulty in finding customers if these solar projects are to replace energy systems that already have customers?
 - *MN8 Response: The legislative incentives are driving substantial market growth, with utilities compelled to comply. The energy demand is evident, as utilities' Integrated Resource Plans (IRPs) indicate the necessity to procure power. However, challenges arise in meeting these demands. The feasibility of these IRPs is questionable, particularly considering resource availability, transmission grid limitations, and interconnection queue constraints.*
- RAC Member Question: How long does a solar farm last and what is the reclamation plan?
 - *MN8 Response: Tier one solar module manufacturers typically provide a 25-year warranty for degradation, meaning solar panels gradually produce less energy each year, usually around 0.5% less. Projects are often planned for longer durations, up to 35 years, and there's a trend towards greater efficiency and potential repowering of solar modules. There are regulatory requirements that ensure decommissioning plans are in place, even in cases of bankruptcy.*
- RAC Member Question: Do solar developers typically own and operate projects for their entire lifespan, paying landowners' lease fees? With new developers entering the market, are you expecting them to sell these projects to others? My concern is about ensuring



maximum benefit for local communities, as outside developers may take money away from the area impacted by the projects.

- *MN8 Response: Developers vary in their approaches and financial models, and some even operate as owner-operators who develop, construct, and maintain projects, which contributes to local job markets and tax revenues. Others may develop projects and sell them to entities like banks, but operations and maintenance (O&M) activities remain necessary, ensuring continued local economic benefits through job creation and property taxes.*
- RAC Member Question: I'm curious about the factors influencing project success, particularly regarding interconnection and securing customers. How much do luck, technical and economic factors, community agreements, and strategic site selection play into increasing a project's chances of success in both transmission and customer acquisition?
 - *MN8 Response: For most projects and power purchase agreements obtained through the competitive RFP processes, it's akin to a beauty pageant where project attractiveness is key. Companies don't want to take on a project with high risk, so this attractiveness mainly involves derisking the project across various components, including permits, mitigation agreements, community benefits, interconnection, and known costs. The interconnection queue reform, prompted by Federal Energy Regulatory Commission (FERC) Order 2023, aims to streamline the queue process, although it may entail initial challenges for utilities transitioning to cluster studies.*
- RAC Member Question: How do you handle project site selection, especially regarding areas you avoid? Can you discuss the advantages of building projects in Oregon for Oregon customers, including labor, regulation benefits, and industry compliance with existing rules? Does a developer like you have an internal list of places they are hesitant to pursue projects due to regulations?
 - *MN8 Response: For Oregon Customers, building renewable energy projects in Oregon brings significant community benefits, such as local job creation and economic investment during construction, and increased tax revenue which trickle down to improvements in essential services like healthcare and education. There are areas developers avoid due to various factors, like slope and size, cultural resources, and environmental considerations. Our company has walked away from some projects due to many cultural resources in a certain area. Early engagement with county planning commissions helps identify areas to avoid.*
- RAC Member Question: Could you provide insight into the economics of distance from transmission lines, considering recent comments on feasibility and potential benefits in projects like BLM's Programmatic Environmental Impact Statement?
 - *MN8 Response: The primary consideration for project siting is proximity to transmission lines or existing substations. Building a Gen-Tie (Generation Interconnect) can be costly, ranging from \$5-6 million per mile depending on*



voltage. Balancing complexity and distance, developers aim to minimize impacts while prioritizing co-location with existing facilities.

- RAC Member Question: Currently, it sounds like the plan of 65,000 acres for 8.7 gigawatts only satisfies present demands. With increasing electrification, should the target be closer to 20 gigawatts?
 - *MN8 Response: The target could indeed get bumped up. Load growth for utilities in Oregon has been relatively stable due to factors like conservation and efficiency measures. However, with initiatives like House Bill 2120 and efforts to transition away from gas-powered appliances, there could be an uptick in renewable electricity demand.*
- RAC Member Question: There was a study called 'Power of Place' put out by the Nature Conservancy a few years ago that looked at meeting clean energy demand and climate goals in the West, estimating 16 gigawatts of solar in Oregon. Do you know if that figure accounts for transportation electrification or data center growth?
 - *MN8 Response: That figure is simply an estimate. The wildcard lies in the unpredictable emergence of large single loads from data centers, which we must react to rather than predict. Estimates range widely, DLCD has projected a need for 25 to 40 gigawatts, though the actual need may not reach this level. Recent IRPs suggest reliance on in-state generation, potentially mitigating the impact on terrestrial land in Oregon.*
- RAC Member Question: What is the market rate for a land lease in Oregon?
 - *MN8 Response: It is somewhat hard to say. The market for leases has become highly competitive due to the surge in proposed projects, leading to skyrocketing lease rates ranging from \$350 to \$1,000 per acre for solar leases. Rates may climb higher, especially near substations or upgraded facilities. Closer proximity to existing infrastructure also drives up land costs, as seen in Morrow County and South Sherman County.*
- RAC Member Question: What is the next logistical bottleneck after the interconnection agreement gets sorted out?
 - *MN8 Response: That isn't entirely clear at the moment, but there is a push for domestic manufacturing of solar panels under the Inflation Reduction Act while manufacturing facilities are still ramping up to meet demand, causing uncertainty about availability. There could also be potential bottlenecks in permitting and long lead times for critical equipment like breakers and transformers. Those wait times are also impacting project timelines, with orders taking several years to fulfill.*
- RAC Member Question: Earlier you listed five limiting factors to getting a project completed. Could you rank those 5 factors in terms of their difficulty or expense?
 - *MN8 Response: Interconnection and transmission are the biggest challenges right now due to the backlog in queues. It's crucial to find a spot with interconnection capabilities. The transmission cluster study process is expensive and hard to*



navigate, so ease of that is a top priority. Following that, finding suitable land for interconnection and permitting are also significant hurdles. Nationwide, communities are increasingly resistant to project approvals, making the process riskier and more complex.

Presentation: Goal 5 Overview and Draft Rule Outline

Jon Jinings, DLCD, presented an overview of House Bill 3409 and how the RAC meeting schedule connects with the timeline of drafting rule language. He shared an overview of Statewide Planning Goal 5, detailed OAR Chapter 660, Division 23, and provided terminology definitions. Jon then presented the draft outline for Division 23 and noted that DLCD staff is particularly looking for input on Sections (5) and (6) for this meeting. RAC Members asked questions throughout the presentation.

- RAC Member Question: Would dual use fall under the conflicting use term?
 - *DLCD response: That is a different matter. DLCD believes that to be synonymous with agrivoltaics and will want to have space to discuss that in the future.*
- RAC Member Question: Is the idea for a “renewable energy district” different than an energy overlay zone? Using the term “district” may be confusing.
 - *DLCD response: It may be very similar; we can look at changing the language.*
- RAC Member Question: Does subsection 5 replace the inventory process?
 - *DLCD Response: Yes, in a way. DLCD is seeking to quantify both pieces (a) and (b) to avoid complex aspects of a standard process.*
- RAC Member Question: If a county were to adopt a renewable energy district which covers Exclusive Farm Use (EFU) land as part of the Goal 5 process, would that land no longer trigger a Goal 3 exception?
 - *DLCD Response: Yes.*
- RAC Member Comment: RAC Member shared a real-life example of trying to get solar projects on a transmission line and noted the high cost of upgrading transmission lines. He highlighted that the best solar resource areas in Oregon don’t have transmission.
- RAC Member Comment: Some of our constituents thought that we should oppose a transmission line, but we had no grounds to oppose it.
- RAC Member Question: Could counties opt in or out of the process?
 - *DLCD Response: If counties do not have the resources to implement, then they do not implement.*
 - *DLCD Response: DLCD will also submit a report to the Oregon Legislature, which could include an ask for technical assistance to support counties that want to opt in but do not have the resources.*
- RAC Member Question: What’s the difference between this process and doing a solar overlay to not need Goal 3 and Goal 4 exceptions?



- *DLCD Response: These are the tools we have and the direction of legislation.*
 - *RAC Member Response: The benefit of this process is to recognize that Goals 3 and 4 are important and need to be balanced with Goal 5.*
- RAC Member Comment: Our intent is to expedite and identify least conflict sites, but the RAC process and potential funding for technical assistance would take at least two years. Results will likely go through the Land Use Board of Appeals (LUBA) process on a county-by-county basis, which wouldn't be resolved until around 2028 or 2029.
 - *RAC Member Comment: To add to this, the project development process can take years.*
 - *DLCD Response: Our renewable energy planner will support counties through the process, and we can fashion language for a safe harbor provision. We are hopeful that the RAC will help create something that can strike a good balance to siting larger projects with less process.*
- RAC Member Comment: Goals 3 and 4 acreage thresholds are imposed through rule, this RAC could recommend changing those acreage thresholds.
 - *RAC Member response: Rules are only automatically applicable to counties if they are directed to be. Rules enable, not require, counties to do things.*
- RAC Member comment: We have the opportunity to describe Goal 5 and perhaps find a way to adopt exceptions to Goals 3 and 4.
- RAC Member comment: Seems like the RAC needs to have two conversations, one discussing what subsections (5) and (6) should look like, and the other discussing what is the best way to implement the exception process.
- RAC Member comment: I have concerns about transmission capacity as it seems like a major hurdle and lacks transparency.
 - *DLCD response: We are interested in ways to move that forward; we are planning to have a transmission webinar.*
- DLCD question: Has a developer done any kind of evaluation of the existing width of the corridors for transmission to calculate what the expansion capacity might be?
 - *RAC Member response: The width doesn't equate to the ability to upgrade the line, it's more related to the electrical engineering components. The county could issue multiple permits along the line, and only one would get built, it's just the realistic constraint of the lines. It'd be more helpful to understand what we think there might be for realistic expectations of how much land we're talking about.*
 - *RAC Member comment: The grid is a living thing that can change, I recommend looking at the grid as it is today rather than knowing where interconnection is.*
 - *RAC Member comment: Transmission is dynamic, I would recommend building generic enough criteria that are adaptable as new lines come on.*
- RAC Member question: For projects that are subject to the Goal 5 program, would they be allowed in the district and the underlying zone, subject to the standards that are provided in Goal 5 only or would they be subject to Goal 5 and other conditions and reviews?



- *DLCD response: We cannot remove certain criteria, but we can consider the best ways to apply them.*
- RAC Member comments: These efforts also intersect with other rulemaking efforts, farm impact tests, conversion tests, and case law.

Tabletop Discussions: Draft Rule Outline Review - Subsections (5) and (6)

The RAC split into three groups to discuss the draft rule outline. There was an in-person group that focused on discussing Subsection 5 (quantity, quality, location), an in-person group that focused on discussing Subsection 6 (land that could be converted), and an online group that discussed both sections. The results of these conversations are captured under the Report Out from Tabletop Discussions section.

Report Out from Tabletop Discussions

DLCD staff and RAC Members shared the following key themes from their small group discussions.

- Constraints for solar siting include irrigated agricultural land, wildlife habitat, cultural sites, slope, grid capacity, and location.
- Areas identified as constraints should utilize avoidance, minimization, and mitigation best practices.
- TACs should discuss irrigated agricultural land and wildlife habitat.
- Capacity factors should be listed upfront in the rule.
- Areas that can be converted into solar sites with mitigation measures include agrivoltaics, high-value farmland, and brownfields.

Discussion on Technical Advisory Committees (TACs)

Jon Jinings, DLCD, proposed three TACs to discuss mitigation, community benefits, and implementation. He noted that the TACs would formulate recommendations to be considered by the RAC, and TAC membership wouldn't be limited to those on the RAC. He asked RAC members to let DLCD know if they were interested in serving on a TAC.

- RAC Member comment: I suggest changing mitigation to conversion.
- DLCD question: Does it make sense to have a separate agricultural and forest TAC?
 - RAC Members agreed.
 - RAC Member response: I would also have them discuss community benefits.



Closing and Next Steps

Vice Chair Nick Lelack provided closing remarks.

Jamie Damon, Kearns & West, adjourned the meeting and noted the next steps. She shared that if folks are coming to the Sage Grouse Lek to meet at the Central Hotel at 5:15 a.m.

Next steps:

- DLCD to begin drafting rule language.
- RAC Members to email DLCD if they are interested in serving on a TAC.
- Next RAC Meeting is May 30 in the Boardman area.

660-023-0195

Photovoltaic Solar Energy Resources

(1) Introduction. The purpose of this rule is to assist local governments in identifying opportunities and reducing conflicts for the development of photovoltaic solar power generation facilities. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050 as identified in subsections (5)-(17).

(2) Definitions. For purposes of this rule the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010 and OAR 660-033-0020 apply. In addition, the following definitions apply:

(a) "Electrical transmission" means... (borrow from the "Green Corridor Rule, OAR 660-033-0055(2)(a)).

(b) "Photovoltaic solar power generation facility" includes, but is not limited to,.... (borrow from OAR 660-033-0130(38)(f)).

(c) "Photovoltaic solar resource areas" are lands typically comprised of multiple ownerships that are particularly well suited for the siting of photovoltaic solar power generation facilities because they have been determined to be significant pursuant to subsection (6)(a) or (6)(b) of this rule.

(d) "Photovoltaic solar resource site" is a property specific location that is particularly well suited for the siting of a photovoltaic solar power generation facility because it has been determined to be significant pursuant to subsection (6)(a) or (6)(b) of this rule.

(3) Local governments may amend their acknowledged comprehensive plans to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites using the standards and procedures in OAR 660-023-0030 through 660-023-0050.

(4) Rather than using the standard process described at subsection (3) above, counties in eastern Oregon may instead choose the following process identified in subsections (5) thru (15) to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites.

(5) Quality, Quantity and Location. Lands including all the following characteristics are recognized to satisfy the Quality, Quantify and Location requirements of this division:

(a) An estimated Annual Solar Utility-Scale Capacity Factor of at least 22-24 percent.

(b) Located within 5 miles of electrical transmission.

(c) A slope of 15% or less.

(6) Determination of Significance.

(a) For purposes of this rule, lands meeting the description of subsection (5) shall be considered significant photovoltaic solar resources when they do not include:

(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6).

(B) Priority Wildlife Connectivity Areas as designated by the Oregon Department of Fish and Wildlife (ODFW).

(C) Other wildlife habitat designated Category 1-4 by ODFW.

(D) Lands protected under Goal 3 that meet the definition of high-value farmland at ORS 195.300.

(E) “Arable Land” as defined at OAR 660-033-0130(38)(a).

(F) PLACEHOLDER “Nonarable Land” as defined at OAR 660-033-0130(38)(d) representing eastern Oregon’s best rangeland for livestock grazing.

(G) Lands protected under Goal 4 with a capability of producing greater than 20 cubic feet wood fiber/acre/year.

(H) Other significant Goal 5 resources included on acknowledged inventories in local comprehensive plans.

(I) Areas included in Military Special Use Airspace Floor Elevation (AGL).

(J) Boardman Geographic Area of Concern.

(K) Other areas, if any, determined by a local government.

(b) For purposes of this rule, lands meeting the description of subsection (5) and that otherwise satisfy the provisions of subsection (6)(a) may be considered significant photovoltaic solar resources when one of the following categories is present and mitigation as identified at section (14) of this rule is also required:

(A) Wildlife Habitat designated Category 3 through 6 for a single species by ODFW.

(B) “Arable Land” as defined at OAR 660-033-0130(38)(a) that is not irrigated as that term is defined at OAR 660-033-0120(8).

(C) PLACEHOLDER “Nonarable Land” as defined at OAR 660-033-0130(38)(d) representing eastern Oregon’s best rangeland for livestock grazing.

(D) Lands protected under Goal 4 with a capability of producing from 20- 50 cubic feet wood fiber/acre/year.

(E) Areas included in Military Special Use Airspace Floor Elevation (AGL).

(F) Boardman Geographic Area of Concern.

(7) Conflicting uses. Unless otherwise identified by a local government, conflicting uses include activities that require a land use decision and may be sensitive to the presence of land intensive uses or significant amounts of ground disturbance based on aesthetic or operational reasons.

(8) Economic, Social, Environmental and Energy (ESEE) consequences. A local government may choose not to limit or prohibit conflicting uses on nearby or surrounding lands without further analysis. In the alternative, a local government may choose to conduct a more detailed analysis that could lead to a decision to limit or prohibit conflicting uses within a photovoltaic solar resource area for photovoltaic solar power generation facilities or on lands nearby a photovoltaic solar resource site.

(9) If a local government chooses to conduct an additional analysis regarding subsections (7), or (8), or both, it must follow the provisions of OAR 660-023-0040.

(10) Program to achieve the goal. A local government may approve a photovoltaic solar power generation facility proposed within a photovoltaic solar resource area or photovoltaic solar resource site designated pursuant to this subsection by determining that the following items have been satisfied:

(11) Placeholder - Possible tool to see that Oregon's clean energy goals are being tended to. Could also be a way to account for projects that are approved but remain undeveloped for an extended period of time.

(12) Cultural Resources.

(13) Wildfire Areas.

(14) Mitigation.

(a) Wildlife.

(b) Agricultural Lands.

(c) Forest Lands.

(e) Wildfire.

(f) Military Assets.

(g) Other.

(15) Voluntary Implementation. Local governments are not required to implement this rule. Local governments may implement this rule upon adopting an ordinance through the post-acknowledgment plan amendment process. The ordinance shall specify if the local government has elected to exercise any or all of the discretions offered with regard to excluded areas pursuant to subsection (6)(a)(M), conflicting uses, ESEE analysis or other items.

(a) When a local government chooses to implement the provisions of this rule it will identify photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c). Photovoltaic solar resource areas may be identified as part of the original post-acknowledgment plan amendment or through a subsequent post-acknowledgement plan amendment.

(b) Until a local government has identified photovoltaic solar resource areas, it will accept individual applications for photovoltaic solar resource sites.

(16) Prior to conducting a hearing to consider an ordinance, a local government will:

(17) Prior to making a decision regarding an ordinance, a local government will:

(18) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

(19) Adaptive Management.

OAR 660-023-0195		
Subsection	Comments	HB 3409 LCDC Charge
(1) Introduction. The purpose of this rule is to assist local governments in identifying opportunities and reducing conflicts for the development of photovoltaic solar power generation facilities. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050 as identified in subsections (5)-(17).	How does this feel? Want to emphasize the “opportunities & reducing conflicts) balance, as well as that this rule creates a special process under Division 23.	NA NA
<p>(2) Definitions. For purposes of this rule the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010 and OAR 660-033-0020 apply. In addition, the following definitions apply:</p> <p>(a) “Electrical transmission” means... (borrow from the “Green Corridor Rule, OAR 660-033-0055(2)(a)).</p> <p>(b) “Photovoltaic solar power generation facility” includes, but is not limited to,.... (borrow from OAR 660-033-0130(38)(f)).</p> <p>(c) “Photovoltaic solar resource areas” are lands typically comprised of multiple ownerships that are particularly well suited for the siting of photovoltaic solar power generation facilities because they have been determined to be significant pursuant to subsection (6) of this rule.</p> <p>(d) “Photovoltaic solar resource site” is a property specific location that is particularly well suited for the siting of a photovoltaic solar power generation facility because it has been determined to be significant pursuant to subsection (6) of this rule.</p>	<p>Just for starters. Will add/delete as needed and based on the language choices that are made.</p> <p>- May decide not to use. Would it be better to just say “Transmission”?</p> <p>- Existing definition in Goal 3 Rule.</p> <p>Meant to include large(r) areas that could include multiple projects. Probably work like a traditional overlay zone.</p> <p>Meant to allow for individual projects likely to be applicant driven. Could be a parcel, a portion of a parcel or contiguous portions of multiple parcels.</p>	NA NA

<p>(3) Local governments may amend their acknowledged comprehensive plans to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites using the standards and procedures in OAR 660-023-0030 through 660-023-0050.</p>	<p>Nothing special here. Basically re-states the existing opportunity.</p>	<p>NA 4.</p>
<p>(4) Rather than using the standard process described at subsection (3) above, counties in eastern Oregon may instead choose the following process identified in subsections (5) thru (17) to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites.</p>	<p>Here is where the new opportunity begins.</p>	<p>(2)(a) 3.</p>

(5) Quality, Quantity and Location. Lands including all the following characteristics are recognized to satisfy the Quality, Quantify and Location requirements of this division:

(a) An estimated Annual Solar Utility-Scale Capacity Factor of at least 22-24 percent.

(b) Located within 5 miles of electrical transmission.

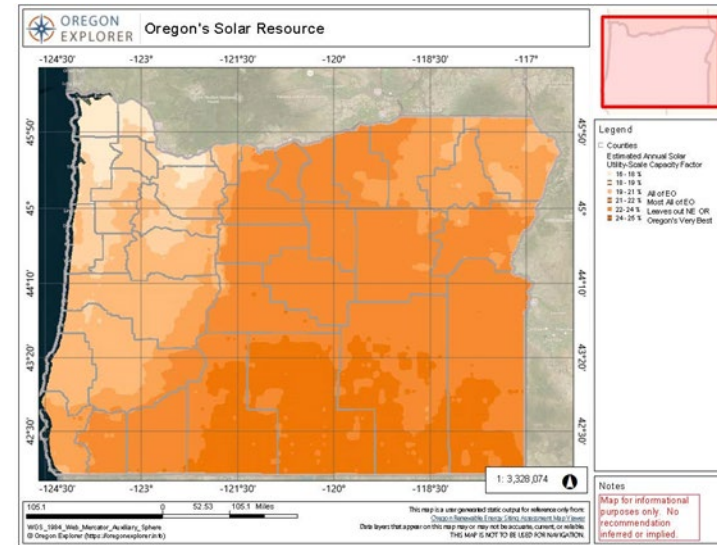
(c) A slope of 15% or less.

This language would supplement the provisions of the standard process at OAR 660-023-0030.

-Can adjust. Much of NE Oregon would not be included. See below.
-5 miles feels like the place to start. More comments below

15% is easily mappable with ORESA tool.

(2)(b)(B) 5.



Proximity to transmission could be the maximum distance that a solar project subject to county jurisdiction could be reasonably expected to locate.

Greater distance will equal more land being included, which increases the likelihood of finding areas that avoid what we hope to avoid. However, if it is too far the results won't be valid.

We are very interested in hearing if there is a better way.

We could use a different number for slope. We heard 12% is a commonly used figure, however, to ORESA tool doesn't have that as a measurement setting. 10% felt limiting while 15% gives a bit more latitude.

It might also be decided that measuring slope isn't necessary, although it feels like the right idea.

(6) Determination of Significance. (a) For purposes of this rule, lands meeting the description of subsection (5) shall be considered significant photovoltaic solar resources when they do not include:	Subsection (6)(a) is intended to represent “Ideal” locations. They should include everything we are looking for in (5) and nothing that we hope to avoid.	(2)(b)(C) 3.,7.
(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6). (B) Priority Wildlife Connectivity Areas as designated by the Oregon Department of Fish and Wildlife (ODFW). (C) Wildlife Habitat designated Category 1-4 by ODFW.	Ideal locations wouldn’t include very important or irreplaceable wildlife habitat.	
(D) Lands protected under Goal 3 that meet the definition of high-value farmland at ORS 195.300. (E) “Arable Land” as defined at OAR 660-033-0130(38)(a).¹ (F) PLACEHOLDER “Nonarable Land” as defined at OAR 660-033-0130(38)(d) representing eastern Oregon’s best rangeland for livestock grazing.	-May be easier to use specific NRCS agricultural capability classes. -Concept would be to call out the best rangeland. Not sure if this is possible.	
(G) Lands protected under Goal 4 with a capability of producing greater than 20 cubic feet wood fiber/acre/year.		
(H) Other significant Goal 5 resources included on acknowledged inventories in local comprehensive plans.		

¹ Assumes “arable lands” would capture lands meeting the definition of “irrigated”

<p>(J) Areas included in Military Special Use Airspace Floor Elevation (AGL). (K) Boardman Geographic Area of Concern.</p>	<p>- Need to learn more from the Military here.</p>	
<p>(M) Other areas, if any, determined by a local government.</p>	<p>Hoping this is self-explanatory.</p>	
<p>(b) For purposes of this rule, lands meeting the description of subsection (5) and that otherwise satisfy the provisions of subsection (6)(a) may be considered significant photovoltaic solar resources when one of the following categories is present and mitigation as identified at section (12) of this rule is also required:</p>	<p>Subsection (6)(b) is intended to represent “very good” locations. They should include everything we are looking for in (5) and <u>almost</u> nothing that we hope to avoid. As written, <u>one</u> of the following categories could be present, which would trigger the need for mitigation. Lands determined to be significant under (6)(b) might or might not enjoy all of the same benefits as those qualifying under (6)(a). This would be sorted out through the “program to achieve the goal” and corresponding revisions to Divisions 6 & 66.</p>	
<p>(A) Wildlife Habitat designated Category 3 through 6 for a single species by ODFW.</p>	<p>Significant SG habitat, Migration Corridors and Cat 1-2 Habitat would not be eligible for this opportunity. Lands with Cat 3-4 would be</p>	

	eligible subject to mitigation unless they have important value for multiple species. Is mitigation typically required for Cat 5-6 stuff?	
(B) “Arable Land” as defined at OAR 660-033-0130(38)(a) that is not irrigated as that term is defined at OAR 660-033-0120(8).	-HVFL and irrigated lands would be off the table. Dry arable land would be eligible subject to mitigation.	
(C) PLACEHOLDER “Nonarable Land” as defined at OAR 660-033-0130(38)(d) representing eastern Oregon’s best rangeland for livestock grazing.	-The nonarable piece only works if we can figure it out.	
(C) Lands protected under Goal 4 with a capability of producing from 20- 50 cubic feet wood fiber/acre/year.	This should be middling quality forest land in Eastern Oregon. The best would be off the table.	
(D) Areas included in Military Special Use Airspace Floor Elevation (AGL).	DoD has indicated that they might want mitigation for some things.	
(E) Boardman Geographic Area of Concern.		

(7) Conflicting uses. Unless otherwise identified by a local government, conflicting uses include activities that require a land use decision and may be sensitive to the presence of land intensive uses or significant amounts of ground disturbance based on aesthetic or operational reasons.	Very interested in RAC feedback. - Acknowledges that there could be conflicting uses and provides a high-level description.	(2)(b)(C)
(8) Economic, Social, Environmental and Energy (ESEE) consequences. A local government may choose not to limit or prohibit conflicting uses on nearby or surrounding lands without further analysis. In the alternative, a local government may choose to conduct a more detailed analysis that could lead to a decision to limit or prohibit conflicting	- Gives counties a free pass on the ESEE analysis if they want it.	3.

<p>uses within a photovoltaic solar resource area for photovoltaic solar power generation facilities or on lands nearby a photovoltaic solar resource site.</p> <p>(9) If a local government chooses to conduct an additional analysis regarding subsections (7), or (8), or both, it must follow the provisions of OAR 660-023-0040.</p>	<p>- Directs counties to follow the standard process if they want to give additional consideration to conflicting us identification and/or the ESEE analysis.</p>	
<p>(10) Program to achieve the goal. A local government may approve a photovoltaic solar power generation facility proposed within a renewable energy district photovoltaic solar resource area or photovoltaic solar resource site designated pursuant to this subsection by determining that the following items have been satisfied:</p> <p>(11) Placeholder. Possible tool to see that Oregon’s clean energy goals are being tended to. Could also be a way to account for projects that are approved but remain undeveloped for an extended period of time.</p> <p>(12) Cultural Resources.</p> <p>(13) Wildfire Areas.</p> <p>(14) Mitigation.</p> <p>(a) Wildlife.</p> <p>(b) Agricultural Lands.</p> <p>(c) Forest Lands.</p> <p>(e) Wildfire.</p> <p>(f) Military Assets.</p> <p>(g) Other.</p>	<p>Will discuss these subsections in detail when a complete draft is offered for July meeting.</p>	<p>(2)(a)(A) (2)(b)(A) (2)(b)(C) 3.,6.,10.</p>

<p>(15) Voluntary Implementation. Local governments are not required to implement this rule. Local governments may implement this rule upon adopting an ordinance through the post-acknowledgment plan amendment process. The ordinance shall specify if the county has elected to exercise any or all of the discretions offered with regard to excluded areas pursuant to subsection (6)(a)(M), conflicting uses, ESEE analysis or other items.</p> <p>(a) When a local government choses to implement the provisions of this rule it will identify photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c). Photovoltaic solar resource areas may be identified as part of the original post-acknowledgment plan amendment or through a subsequent post-acknowledgement plan amendment.</p> <p>(b) Until a local government has identified photovoltaic solar resource areas, it will accept individual applications for photovoltaic solar resource sites.</p>	<p>This language can certainly be written better. For now we are hoping to get our arms around whether a county must produce a map.</p> <p>Allowing individual applications for photovoltaic solar resource sites would allow almost immediate implementation.</p> <p>Another option, not mentioned in the draft language, would be for LCDC to adopt a state map that counties could choose to apply directly.</p>	<p>(2)(a) 3.</p>
<p>(16) Prior to conducting a hearing to consider an ordinance, a local government will:</p> <p>(17) Prior to making a decision regarding an ordinance, a local government will:</p> <p>(18) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.</p> <p>(19) Adaptive Management.</p>	<p>Will discuss these subsections in detail when a complete draft is offered for July meeting.</p>	<p>(2)(a)(B) 3.</p>

FINDING OPPORTUNITIES AND REDUCING CONFLICT IN SITING PHOTOVOLTAIC SOLAR POWER GENERATION FACILITIES

SECTION 35. (1) On or before November 3, 2023, the Land Conservation and Development Commission shall adopt rules to allow a local government to consider a photovoltaic solar power generation facility a rural industrial use for purposes of justifying a reason for an exception under ORS 197.732 (2)(c)(A).

(2) On or before July 1, 2025, the commission shall adopt rules:

(a) Establishing criteria through which local governments may be permitted or required to allow the siting of a photovoltaic solar power generation facility, including criteria that consider:

(A) Potential conflicts with other resource lands; and

(B) Soliciting public feedback from neighboring landowners or residents; and

(b) Identifying the characteristics of lands in Eastern Oregon, as defined in ORS 321.700, best suited for counties to allow, encourage and incentivize photovoltaic solar power generation facilities, based on consideration of:

(A) The land's suitability for contributing to the state's clean energy goals;

(B) Site characteristics, resource potential, proximity to current and future transmission access and locations for potential interconnection; and

(C) The ability to readily avoid negative impacts on natural resources, forestry, habitat, agriculture, community needs and historic, cultural or archeological resources, or to readily minimize or mitigate those negative impacts.

From LCDRC Charge

1. *Are informed by consultation with Tribal Governments regarding how best to protect historic, cultural or archeological resources without revealing sensitive information.*
2. *Are informed by public information sessions to be offered in conjunction with Rule Advisory Committee (RAC) meetings held in Eastern Oregon communities.*
3. *Establish a voluntary “safe harbor” option in OAR chapter 660, division 23 allowing counties to identify preferred locations for siting photovoltaic solar power generation facilities.*
4. *Establish guidance in OAR chapter 660, division 23 for counties that decline using the “safe harbor” option in favor of developing a more detailed local program to identify preferred locations for siting photovoltaic solar power generation facilities.*
5. *Identify that areas considered “significant” for photovoltaic solar power generation for purposes of OAR chapter 660, division 23 are to be designated based on having an adequate estimated Annual Solar Utility-Scale Capacity Factor, and reasonable proximity to transmission, as well as the ability to entirely or substantially avoid other important resources or values.*
6. *Include area selection criteria based on broad consideration of community priorities and benefits. Among other things, consideration will be given to possible impacts to city growth scenarios, future housing availability, and urbanization strategies."*
7. *include connectivity of agricultural and forest lands and wildlife habitat areas in its consideration of natural resources and resource lands.*
8. *Include revisions to OAR chapter 660, Divisions 6 and 33 identifying acreage thresholds for photovoltaic solar power generation facilities considered under the newly established provisions of OAR chapter 660, division 23 that are larger than would otherwise be allowable without an exception to Goals 3 or 4.*
9. *Include revisions to any applicable administrative rules are necessary to carry out the mandate of “Finding Opportunities and Reducing Conflict in Utility Scale Photovoltaic Solar Siting.” Applicable rules include, but are not limited to, OAR chapter 660, divisions 4, 6, 23, and 33.*
10. *Include measures designed to mitigate impacts to commercial farming, ranching and forestry activities on lands protected under Goals 3 and 4. Mitigation measures should provide certainty for applicants as well as decision makers.*