

EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #4



TO: Solar Siting Rulemaking Advisory Committee Members
FROM: Adam Tate, Renewable Energy Planner
SUBJECT: Rulemaking Advisory Committee (RAC) Meeting Packet #4

Dear Solar Siting Rulemaking Advisory Committee Members,

Thank you again for bringing your diverse experience and expertise to this rulemaking process and for a good third RAC meeting in Boarman/Hermiston. Our focus now turns to Madras, and our fourth RAC meeting on Wednesday July 17th. This meeting will be all about a deep dive into draft rule language for Division 23, followed by a working lunch and updates on related DLCD RAC's and the Technical Advisory Committees. Followed by small group discussions on the draft outlines for Divisions 33, 6, and 4. As with our previous meetings, there will be an optional tour which will take place on Tuesday the 16th from 2:00 to 4:00 pm, it will be a tour of NE Irrigation District and nearby solar projects.

Desired Outcomes

- Reach alignment on and move forward with Division 23 language.
- Review and discussion on Divisions 4, 6, and 33 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 Third RAC Meeting & Themes from RAC member notes
4. Survey Responses
5. Draft Outlines Divisions 4, 6, and 33. (Note: we will send out updated Division 23 language the week before the RAC meeting.)

The meeting will be held in the Dawn Reading Room at the Central Oregon Community College – Madras Campus, located at 1170 E. Ashwood Road, Madras, OR 97741.

The meeting will run from 9:00 AM to 4:30 pm with a working lunch at noon provided by DLCD.

For those of you who cannot attend in person, please use the following Zoom link: <https://kearnswest.zoom.us/j/86742792741?pwd=HUnYigrmbdx0kkvr4N8wHb9DzaSbrB.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

Wednesday, July 17, 2024, from 9:00 am – 4:30 pm PT

- The meeting will be held in the Dawn Reading Room at the Central Oregon Community College – Madras Campus, located at 1170 E. Ashwood Road, Madras, OR 97741.
- Lunch will be provided for RAC members.
- Members of the public can livestream the meeting at <https://www.youtube.com/@OregonDLCD>.

Desired Outcomes

- Reach alignment on and move forward with Division 23 language.
- Review and discussion of Divisions 4, 6, and 33 outlines.

Optional Tour

DLCD will be hosting an optional tour for RAC members on Tuesday, July 16, 2024 from 2:00 pm – 4:00 pm PT. The tour will include visiting the NE Irrigation District and solar projects. Vans will depart from Central Oregon Community College – Madras Campus, located at 1170 E. Ashwood Road, Madras, OR 97741.

Public Outreach Event

DLCD will be hosting an open house on Tuesday, July 16, 2024, from 5:30 – 7:00 pm PT in the Dawn Reading Room at the Central Oregon Community College – Madras Campus, located at 1170 E. Ashwood Road, Madras, OR 97741.

Tuesday, July 16, 2024 Agenda

RAC Member participation optional

Time (PT)	Topic	Lead
2:00 – 4:00 pm (120 min)	Tour: NE Irrigation District and Solar Projects	Department of Land Conservation and Development



5:30 – 7:00 pm (90 min)	Public Outreach Event	Department of Land Conservation and Development
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Wednesday, July 17, 2024 Solar 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 – 10:45 am (90 min)	Division 23: Part 1 <ul style="list-style-type: none"> Brief Presentation: Feedback Incorporation RAC Discussion 	All
10:45 – 10:50 am (5 min)	Break	All
10:50 am – 12:20 pm (90 min)	Division 23: Part 2 <ul style="list-style-type: none"> Brief Presentation: Feedback Incorporation RAC Discussion 	All
12:20 – 12:50 pm (30 min)	Working Lunch - DLCD Staff Updates <ul style="list-style-type: none"> Farm and Forest RAC Cultural Resources RAC Technical Advisory Committees 	Department of Land Conservation and Development
12:50 – 2:20 pm (90 min)	Divisions 33 and 6 <ul style="list-style-type: none"> Presentation overview Small group discussion 	All
2:20 – 3:05 pm (45 min)	Division 4 <ul style="list-style-type: none"> Presentation overview Small group discussion 	All
3:05 – 3:20 pm (15 min)	Break	All



3:20 – 4:20 pm (60 min)	Divisions 33, 6, 4 Report Out	All
4:20 – 4:30 pm (10 min)	Closing and Next Steps	Jamie Damon, Kearns & West
4:30 pm	Meeting Adjourn	



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

May 30, 2024, RAC Meeting #3

Location: Oregon Military Center, Boardman, Oregon, and Zoom Webinar. There was an optional tour that began at 2:00 pm after the meeting.

Meeting Attendees

RAC Member Attendees:

- Andrew Mulkey, 1000 Friends of Oregon
- Mike W. McArthur, Community Renewable Energy Association
- Elaine Albrich, Davis Wright Tremain
- Kimberly Peacher, Department of the Navy
- Greg Corbin, Green Diamond Resource Company
- Commissioner James Williams, Lake County
- Michael Eng, Lostine Fire Wise
- Max Yoklic, New Sun Energy
- Marc Hudson, Oregon Agricultural Trust
- Andrea Kreiner, Oregon Association of Conservation Districts
- Dan Orzech, Oregon Clear Power
- Lauren Poor, Oregon Farm Bureau
- Mike Totey, Oregon Hunters Association
- Jack Watson, Oregon Solar+Storage Industries Association
- April Snell, Oregon Water Resources Congress
- Travis Sellers, Pendleton Building and Construction Trades Council.
- Dugan Marieb, Pine Gate Renewables
- Max Greene, Renewable Northwest (Alternate)
- 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:

- Vice Chair Nick Lelack, Land Conservation and Development Commission
- Jim Johnson, Oregon Department of Agriculture
- Jeremy Thompson, Oregon Department of Fish & Wildlife (ODFW)
- Dan Hubner, Oregon Department of Forestry
- Brian Cochran, Oregon Department of State Lands (DSL)
- Amber McKernan, Oregon Department of State Lands (DSL)
- Vernon Wolf, Oregon Department of State Lands (DSL)



- Shawn Zumwalt, Oregon Department of State Lands (DSL)
- 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)
- Adam Tate, Oregon Department of Land Conservation and Development (DLCD)

Additional Attendees:

- Dan Dorran, Umatilla County Commissioner
- David Sykes, Morrow County Commissioner
- Tamra Mabbott, Morrow County
- Rob Del Mar, Oregon Department of Energy
- Jillian DiMedio, Oregon Department of Energy
- Megan Davchevski, Umatilla County
- Bob Waldher, Umatilla County
- Oregon State Legislature Representative Ken Helm
- Greg Mintz, Rep. Helm office
- Deborah Westlight (Oregon Clear Power but not RAC member)
- Patrick Mills (this might be a CTUIR person but not 100% positive)

Welcome, Opening Remarks, and Agenda Review

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

Umatilla County Commissioner Dan Dorran provided opening remarks.

Land Conservation and Development Commission (LCDC) Vice Chair Nick Lelack provided opening remarks.

Morrow County Chair David Sykes provided opening remarks.

Nic Kotz, Oregon Military Department, provided opening remarks.



Presentation: Military Considerations and Solar

Kim Peacher, U.S. Department of Navy, presented an overview of the Navy's Northwest Training Range Complex. She detailed Navy operations and training routes, noting that there are airspace constraints to solar siting. She shared that the Navy has compatible land use planning practices and provided an overview of its tools for mitigating and preventing impacts. Kim highlighted the Readiness and Environmental Protection Integration Program, noting the importance of partnerships, and shared community funding opportunities.

The RAC had the following questions:

- Question: The draft rules discuss areas of avoidance, do military activities require complete avoidance or can there be mitigation?
 - Navy response: For solar development, the threshold is a floor of 500 feet or less. There is usually mitigation, and the rule language can reflect that.
- Question: What do pilots report when flying over solar sites?
 - Navy response: Pilots usually report a pool or lake-like surface. To address the glare, pilots put visors down and mark the area as a glare. Mitigation is always on the military side to address, not on the developers.
- Question: Hypothetically, China has twice as many solar panels and our troops are flying over there. How is the Navy training them to fly over that landscape?
 - Navy response: Warfare today is generally long distance, if there is a structure causing issues, the Navy would remove that structure. The Navy is not planning on bobbing and weaving.

Todd Farmer, Oregon Military Department (OMD), presented an overview of the OMD's organization, mission, and partnership with the Navy. He highlighted OMD's facilities including the Raymond F. Rees Training Center and shared a Reuse Plan for the Umatilla Chemical Depot.

The RAC had the following questions:

- Question: Regarding the redevelopment plan for the base area, what uses and criteria are being considered?
 - OMD response: The development is fixed. There will be weapon ranges, housing and dining facilities. The developments will not impede OMD's ability to train, and most uses are industrial or natural areas, which creates a noise buffer for neighbors.
- Question: Have you completed an analysis for solar development compatibility?
 - OMD response: Yes, there is a micro-grid plan that is 10 acres internal to our facilities.
- Question: Is that an off the grid micro grid? Would that be an appropriate solution for other industrial needs around the area?



- OMD response: It is currently internal to us for energy security. The utility is not prepared to purchase our energy, but OMD looks for those opportunities. A few other OMD facilities connect to the grid to support peak hours.
- Question: What is the status of solar development around the sites in Christmas Valley?
 - OMD response: Most of that infrastructure has been removed. The Air Force is looking at purchasing that site for re-establishment. Other uses and compatibility with solar are to be determined. The BLM is open to some solar around that area.

Presentation: State Energy Strategy

Jillian DiMedio, Oregon Department of Energy (ODOE), presented an overview of ODOE's mission and Oregon's energy landscape. She shared the need for the Oregon State Energy Strategy (Strategy), noting that three main elements of the Strategy include a summary and pathways to achieve Oregon's policy objectives, stakeholder engagement, and policy recommendations.

Rob Del Mar, ODOE, shared that the Strategy scenario analysis will model energy use in 2035 and 2050 and will need to balance tradeoffs between land and water use, equity, economic development, and reliability and resilience. He shared discussion questions for the RAC to respond to.

The RAC had the following questions:

- Question: Will the modeling scenarios consider in and out of state options? It would be helpful to have those numbers in the report, it is not clear if the 30 gigawatts (GW) by 2050 is for in state production or overall.
 - ODOE response: There is no specific mandate for in state development. When considering in state or out of state options, if development is pushed out of state, so are the associated environmental impacts. ODOE will look at this in the scenarios.
- Question: Have you considered incentives for developers?
 - ODOE response: Oregon has had some incentives. Incentives would not come from ODOE, they would come from the State Legislature. There was the Oregon Solar Development Incentive but that has ended.
- Question: Have you done a cost benefit analysis to calculate the amount of green landscape that you are displacing with solar, and how that might factor in the Strategy?
 - ODOE response: We have looked at that internally and may develop it as part of the Strategy. Texas has built 30 GW of wind, and while the market is different, it shows that number is feasible for renewable energy. If you look at 30 GW of solar, that is a large amount of land. We do not have definitive numbers yet, but solar is a relatively energy dense resource, yet high impact.



- Question: What do scenarios mean to ODOE, and do they look at a portfolio and percentage of clean energy resources? Does modeling involve mapping? How will your analysis look at impacts on land use and natural resources?
 - ODOE response: So far, we have not done any of that since we are in the early stages. We are seeking feedback for the development of the scenarios; examples include what if transmission was severely constrained or what if electrification happens slower than the reference case. The scenario development is not to determine if we need a certain amount of a certain resource, it is about understanding
- Question: Ideally, the Strategy would precede this RAC process, since it seems like the RAC is making assumptions about the future. How do you suggest the RAC move forward without knowing the Strategy? Additionally, is the state willing to affect markets to achieve certain goals or is it just analyzing various scenarios for market implications?
 - ODOE response: One of the questions we had for this group is how can the Strategy inform the work you are doing. Let us know how we can ensure our work is complimentary. There are no plans to affect the market. Historically, Oregon has looked at markets to create incentives. The Oregon Public Utilities Commission (OPUC) will work with investors to establish rates. Oregon is not a big enough market to have an impactful effect.
- Question: A graphic showed that for every two or three energy units of use, one is wasted. Are you looking at energy storage as a future component to support equitable expansion of the electrical system?
 - ODOE response: Yes, we are looking at storage and energy efficiency. Additionally, clean energy is more efficient than non-clean energy.
- Comment: I'm hearing that ODOE wants the RAC to share our thoughts in developing the State Energy Strategy. It is critical to think about energy generation staying in the state. Every state around us has similar clean energy goals. The Strategy should include an assumption that the transition should happen locally within Oregon. The ratepayers will carry the brunt of the transition and the state should set priorities in terms of what energy it wants to transition to and away from. For example, if the State decides to move away from coal, do not move away from natural gas at the same time, so a transition can occur.
- Question: Energy systems are regional, and some resources are developed in Oregon and go out of state. How will we work with other regions and is the regional transmission authority a part of the analysis?
 - ODOE response: The energy model is regional to all of the western states, including Montana and Idaho. Power purchase agreements are what makes projects "go", and if Seattle City Light or another buyer has the highest bid, that is where the power goes.



- Question: Buyers purchase the rights to the energy, but electrons are not necessarily flowing. Should we look at where the power flows to provide things like grid resiliency and stability into our system?
 - ODOE response: Yes.
- Question: Are you considering nuclear?
 - ODOE response: Oregon has a prohibition in statute against new nuclear development until there is a permanent repository for waste materials.
- Question: OPUC will likely play a role in implementing the Strategy through their integrated resource planning processes, approval of projects and rate bases, and condemning private property rights. How is OPUC being integrated into this process?
 - ODOE response: There will be an interagency steering committee, advisory group, and working groups that will all provide input. There will also be additional public engagement including listening sessions and formal Tribal consultation.
- Question: In terms of impact assessment, it looks like a lot of domestic lithium production will happen in Oregon. In terms of community impact equity frameworks, a lot of impacts will come from decommissioning old energy infrastructure in towns whose economies have been predicated around those legacy contaminants. How will that fold into the analysis?
 - ODOE response: A lot of that will be handled through a qualitative analysis and discussion in the policy section. We are open to hearing about data sets or assumptions to work into the model. If we cannot work it quantitatively into the model, we will consider it qualitatively in discussions.
- Question: It sounds like a lot of information is going to be put into these models. What information would be provided in the final report, or in other documents associated with the report, regarding what the capacity is of certain land areas or certain transmission lines?
 - ODOE response: We do not know exactly how that will work yet. We can take that question back to our modelers and ask them.
- Question: I appreciated the regional picture of the Strategy. How do we meet Oregon policy and account for other policies? Previous modeling showed the Oregon offshore wind could meet regional energy needs outside of Oregon, and utilities outside of Oregon are interested in procuring resources to meet their energy loads. Additionally, there is interest to build new transmission and potentially connect the western and eastern interconnects together. Will any of this factor into the Strategy?
 - ODOE response: When we look at transmission buildouts, we look at the likely end result. Looking at the Nevada transmission project, that will likely result in Nevada solar coming into Oregon. For offshore wind, transmission will likely need a transmission project. We do not have answers to those big questions for moving resources around regionally.



- Question: Why does the Strategy not look at geographic distribution of resources? How does ODOE look at the permitting regime in terms of how many projects get permitted versus how many get constructed? I will follow up with a few questions about transmission market assumptions and modeling separately.
 - ODOE response: There will be overlap with this RAC and ODOE's process on permitting, and hopefully we can provide value to each other. It seems like this RAC is trying to get more local control over some of these project sitings. ODOE will have jurisdiction over the large projects, but everything else will be done at the county level. We are hoping this study shows some barriers to reaching our climate goals and that could be discussed in the qualitative section through policy fixes.

Division 23 Overview

Jamie Damon, Kearns & West, had that RAC members organize themselves into small groups for tabletop discussions to review the draft rule language shared in the meeting packet. Each small group discussion will start with a brief presentation by Jon Jinings, DLCD, about the draft language, section by section. She highlighted that this is a starting point and temperature check conversation.

RAC members had the following questions:

- Question: What if we do not agree with the process?
 - DLCD response: We have a duty to respond to the legislative record and charge as adopted by LCDC. There is specific direction and expectation that this is voluntary for counties and that Goal 5 is the centerpiece of this work. Direction was to start with Division 23, with additional rulemaking in Divisions 6 and 33. We want to have a process that does not cause delays as the counties need to do a lot of work.
- Question: A county could use this Goal 5 process on a project specific basis, so someone could apply for a Conditional Use Permit and Goal 5 inventory concurrently?
 - DLCD response: Yes.
- Question: What happens if no counties adopt this? How would we meet the legislative directive then?
 - DLCD response: That would be a loud indicator of how counties feel about it. The record and LCDC charge say that it is voluntary. We want a positive outcome and please be patient and trust the process.
- Comment: I want to share that I've been seeing concern that there could be issues related to the specific pathway or process that these criteria are placed. From my perspective, there would be issues regardless of what pathway we choose, including a Goal 3 pathway. The conversation today is to look at the details of what is in the rules because that will be relatively the same no matter where they are in the law.



Jon Jinings, DLCD, presented an overview of Division 23 Subsections 1-5. He reviewed the charge and RAC process, and the draft rule language.

RAC members had the following questions:

- Question: Can you explain the difference between photovoltaic solar resource areas and photovoltaic resource site? Is that a site could do an individual pop-up?
 - DLCD response: Yes, that is right. If that seems like the right approach, we would offer both to the counties.
- Comment: From the agricultural perspective, it would be helpful to have iterative mapping between sessions.

The RACs split into small group discussions. High level outcomes of these discussions are captured in the Report Out and Discussion section of this summary.

DLCD Staff Updates

Due to time constraints the RAC did not discuss this agenda item.

Remaining Divisions Outline Overview and Discussion

This item and associated small group discussion was moved to the next meeting's agenda

Report Out and Discussion

After the small group discussions, the full RAC reconvened. Jon Jinings, DLCD, asked the group if Section 15 should require a county to opt in to either complete a full program of mapping and designation or authorize counties to receive and approve individual site-driven applications for solar. He noted this rule would avoid the exception process.

RAC Members had the following questions and discussion:

- Question: Did this group agree to not draw maps of solar designation at our last meeting?
 - DLCD response: The group did discuss this at our last meeting, but no final determination was made. The question right now is if the RAC wants to allow counties to opt in to choose to draw a map or, instead, move forward application by application.
- Comment: It seems very hard to know if mapping is the best approach until this group knows more about the specifics of Sections 5 and 6.



- Comment: Mapping makes for less flexibility for counties. Decisions for landscape scale proposals should be made by the counties and a map would mean county governments are bound to work within a certain framework beyond their control.
- Comment: A map would impact the agricultural economy. Soil type should be an important criteria for solar development.
- Comment: Mapping also means that certain areas are locked in as able to develop and not develop for a long time until a new map is created. Land can and will change over time and a map would run counter to that. It is possible a map could be out of date before it is even published.
- Comment: A map would potentially allow for a quicker process for approval. Some level of certainty would be helpful, barring a map, some type of boundaries will be needed.

Jon Jinings, DLC, thanked the group for their input.

Jamie Damon, Kearns & West, noted that this topic will be discussed more at the next meeting. She then asked groups to report out highlights from their small group discussions. Members shared the following key themes and ideas:

- Definitions for these rules should be clear and objective but also broad enough to allow for some factors to change in the future. Terms that may need more precise definitions include “slope” and “quantity.”
- Limits under Section 5 should potentially be minimized, given the potential for changing technology and local variations.
- The impacts of solar on the agricultural economy are more complicated than just soil impacts, more should be considered from the group on this matter.
- Wildlife mitigation could possibly be done across boundaries by watershed rather than property boundaries.
- The current forestry proposal is likely too restrictive for Eastern Oregon.
- It may be beneficial to look at existing Division 23 language to make the tracking of wetlands and riparian areas similar and also make such tracking not mandatory.
- Scale and scope were identified as significant concerns, as the general public may think that all solar projects are included in the provisions.
- There was a suggestion to substitute "lands economically viable for solar energy" in Section C, but concerns were raised about the vagueness of the definition.
- Private landowners have expressed their lack of interest in being included in an overlay area.
- Water Irrigation Districts should be looked at and considered for these rules. There are areas that were previously irrigated and no longer are which may be very useful information.
- Mapping plays a significant role in determining how to prioritize development.
- There is general agreement on the significance of habitat categories in these rules.



- Excluding factors may be as efficient to screen for high-value lands as including factors.
- The current provision of solar land development within five miles of a transmission line is restrictive and should possibly be expanded to 20 miles.
- The topic of cultural resources needs more discussion.

Closing and Next Steps

Jon Jinings, DLCD, thanked everybody for their participation.

Next steps:

- RAC members to connect with ODOE staff for any additional input on their questions
- RAC members to share any additional specific language edits with DLCD staff.
- DLCD to incorporate feedback and share updated draft rule language.
- Next RAC Meeting is July 17 in Madras.

Meeting Adjourn

The meeting adjourned at 2:00 pm PT.

Some RAC members attended an optional tour from 2:00-4:00 pm PT which showcased proposed and developed solar sites.

RAC Member Meeting Notes

A major component of the meeting was asking the RAC members to get into small groups to discuss and fill out the meeting questionnaire. Below is a summary of the notes received from RAC members by question number.

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).

Common themes among the responses were a request for more information in the Introduction regarding the geographic scope of the rules, the size of the projects to be impacted and how DLCD will assist local governments with implementation of the rules.

2. Definitions. For purposes of this rule the definitions in ORS 197.015, OAR 660-006-005, OAR 660-023-0010 and OAR 660-033-0020 apply. In addition, the following



definitions apply:

(a) “Electrical Transmission” means...(borrow from the “Green Corrido 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 to 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 generations facility because it has been determined to be significant pursuant to subsection (6)(a) or (6)(b) of this rule.

Common themes among the responses to the Definitions Section include a desire for the definitions to be more specific - especially for Transmission – it should also mention voltage or a set minimum KV requirement so we do not include low KV lines. We also need a definition for Gentie. The line about multiple ownerships is confusing and/or unnecessary. Several of you mentioned adding economic viability to this section.

3. Local governments may amend their acknowledged comprehensive plans to designate photovoltaic solar resource areas or establish a 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.

Common themes among the responses were the need to talk about funding for implementation of the rules and establishing these areas by local governments as well as stressing the need that the standard process would need a safe harbor. Others asked if the exceptions process would still be required. This is not replacing the exceptions process, merely offering another pathway.

4. Rather than using the standard process described in 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.

RAC members commented about whether or not to make this an opt-in or an opt-out process for counties.



5. Quality, Quantity and Location. Lands including all the following characteristics are recognized to satisfy the Quality, Quantity 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 section had a ton of comments. Most said that the Solar Capacity Factor was irrelevant to developers and that all of eastern Oregon gets enough sunshine. Others noted that economic viability of projects would take care of slope considerations and noted that developers can build on steeper slopes, but usually avoid doing so for cost reasons. Many noted that 5 miles if a transmission line is not far enough and advocated for a 10- or 15-mile buffer from transmission lines or that perhaps a certain percentage of solar installations be required to be within a set distance of transmission lines like the proposed 5 mile distance as written. Some asked if substations and gentie lines should be a factor and how we will define transmission lines and what KV rating they should have. Others wanted sites closer to lines in dedicated Rights-of-way. Others wanted this mapped out and put into ORESA.

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 4 with a capability of producing greater than 20 cubic feet wood fiber/acre/year.
 - (H) Other significant Goal 5 resources included on acknowledges 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 by OAR 660-033-0130 (38)(a) that is not irrigated as



that term is identified 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 of wood fiber/acre/year.

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

(F) Boardman Geographic Area of Concern.

There were a lot of comments about number 6, in your notes. Multiple RAC members noted that mapping habitat area is very problematic and that the typical development process is to contact ODFW for a site visit and analysis. Others wondered what the cumulative impacts of farmland loss would be taken into account, if groundwater would come into play, and if agrivoltaics could be used as a mitigation factor. Some were skeptical of mapping and other want mapping, but we all need to be looking deeper as this one question posed, “what if a site is Cat 5 (habitat) but has a Cat 2 stream running through the middle of it?” Others noted things like there isn’t much forestry going on in Eastern Oregon, and that High Value Farmland can be problematic and should be protected. Others wondered about siting solar facilities on brownfield sites and other already disturbed locations.

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.

RAC members noted that defining this feels problematic and weren’t sure what this point really meant.

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.

RAC members didn’t have a lot to say on this one but noted that more clarity is needed, and some noted that this is conceptually awkward and that there aren’t very many conflicting uses.

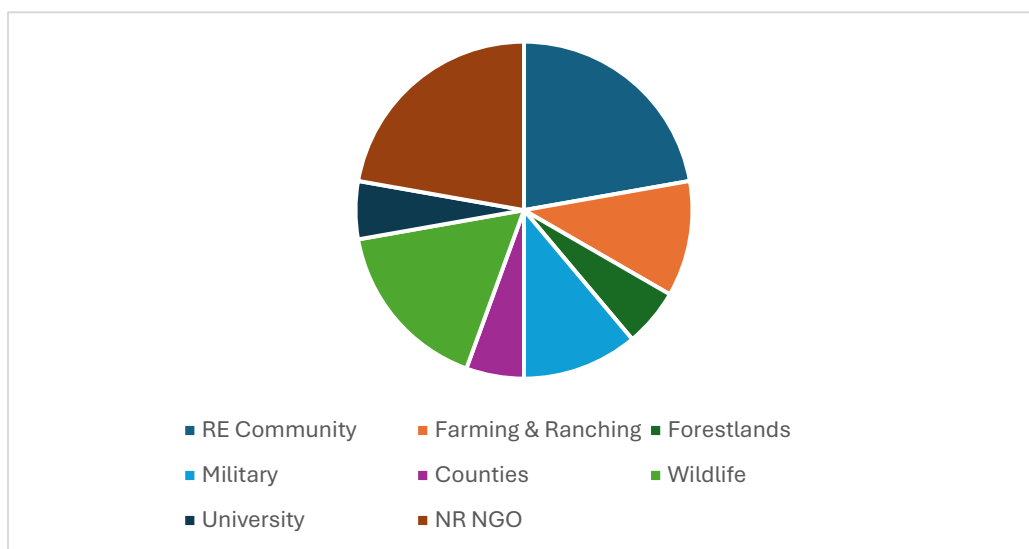


15. Skipping all the way to 15 now because no one wrote notes on 9-14, likely because we ran out of time and most of the conversation was focused on the bigger items from earlier in the list.

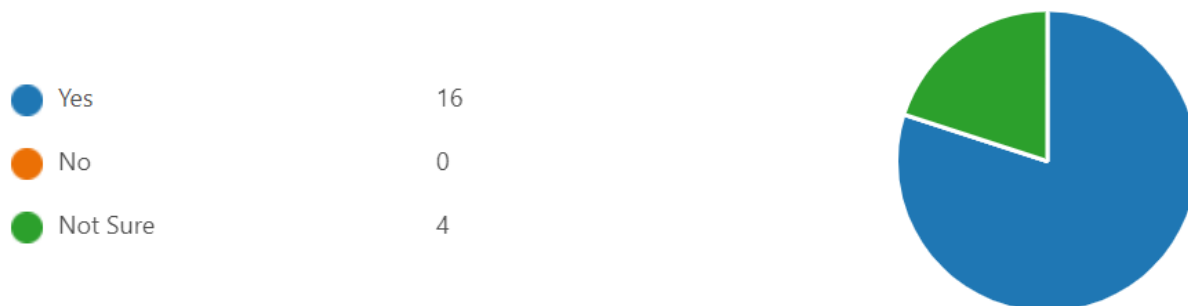
Comments on 15 included the following: Should counties develop a program or can it be an applicant driven process? Maps for the public may not be needed but they are needed for the RAC to understand this. One RAC member worried that county jurisdiction would lead to inconsistent interpretations of the rules. Other noted that this should be voluntary for counties and not mandatory.

1. Survey Overview

A total of 20 responses were provided by a variety of RAC members.



2. Does the draft language regarding the rule introduction and possible definitions included in subsections (1) and (2) located on page 19 of the meeting packet feel like a reasonable starting point?



3. I have comments, questions observations on subsections (1) and (2) – 10 Responses

It seems that local governments will need some guidance regarding the "size" of a solar generation facility to which this rule applies. A concern is that local governments would be inclined to apply this rule to all solar project proposals, which could significantly disadvantage smaller-scale solar projects. If this rule is meant to address only large, "utility-scale" solar generation facilities, local governments need to know what that means. It also seems that Oregon needs a broader renewable energy policy and rules that would incentivize and facilitate solar generation facilities of all sizes, if Oregon is going to meet

its renewable energy portfolio goals. Opportunities for "dual use" solar generation facilities (i.e., agrivoltaics) on agricultural lands should be incentivized and facilitated - which may be more appropriate at less than "utility-scale" sized projects, to help meet renewable energy goals, provide more direct economic benefits to local communities by maintaining local ownership of the project, and to accrue additional income opportunities for farmers/ranchers, while also maintaining agricultural use.

No opinion about the specific definitions ("electrical transmission," etc.), but the introduction and general structure seem reasonable.

I think the feasibility of this approach depends entirely on the RAC's approach to Goals 2, 3, and/or 4 specifically. It is difficult to assess whether the proposed language for a Goal 5 process is reasonable without having discussed whether there are more direct approaches under Goals 2, 3, and/or 4 that the RAC can agree upon. Furthermore, the number of restrictions in the proposed language appears that it could be extremely narrow, meaning there will be very limited land available for consideration - has DLCD attempted to model this rule to determine how much land might be available for development? Also, what is the guarantee that counties will undertake this approach? Is there funding? Is legislative funding required? Even if there is funding, what does DLCD anticipate as a timeline for adoption? If there is not funding, what other approaches are we going to take to achieve the legislative directive?

Good starting place but need to would be good to include all language in next draft (rather than refer to OARs). Would read better to have all definitions in one section (such as subsection (5) and (6)).

I think subsection (3) could open up a can of worms that may need additional rulemaking, and is potentially beyond the scope of this rulemaking. The standard goal 5 process looks at the resource in terms of its significance. If the same process were used for solar, then most flat land near a power line or substation could be significant. If there's a standard process that's being opened up to other counties outside of eastern Oregon--which is what sub 1(3) does--I think the agency should make sure that there are "supplemental or superseding significance criteria set out in OAR 660-023-0090 through 660-023-00230" that inform the "standard" Goal 5 process for solar. See OAR 660-023-0030(4)(b). I would clarify that this new rule at OAR 660-023-0195 contains superseding significance criteria that applies to all attempts to identify a significant Goal 5 resource, even those not located in eastern Oregon. Applied to solar, the standard ESEE decision process of identifying conflicting uses needs to be tweaked based on the nature of utility scale solar. The goal should not be to protect solar from "conflicting uses" like farming or forestry, but instead to ensure that solar is located in places that avoids conflicts. OAR 660-023-0040. I think there

needs to be protections built in to the standard Goal 5 process to ensure that farm and forestland outside of eastern Oregon couldn't be designated significant for renewable energy absent some consideration of the impacts of that designation on Goal 3 and 4 resources.

The definitions reference sections 6a and 6b, but not section 5--isn't that also part of determining significance?

Have you done a mapping exercise of the draft subpart (5) and (6) factors to see what will come out of siting assessment tool? The factors are pretty stringent when you collectively apply. I don't see how this is moving the needle.

For (2)(a), we suggest keeping this definition as broad as possible to allow consideration of new transmission that may be developed and broad enough that developers won't be restricted to only considering areas "close" to transmission if an alternative is feasible (like building a new lines to gen-tie).

4. The “Quality, Quantity, Location” language included in subsection (5) located on page 21 of the meeting packet is intended to represent basic features that successful solar development needs (access to the solar resource, proximity to transmission, relatively flat land). Does this generally hit the mark? Is there a better way ?

● Yes	8
● No	3
● Not sure	8



5. I have comments, questions observations on subsection (5) located on page 21 of the meeting packet – 16 Responses

Would prefer to have discussion followed by approval or additional input

Should #3 on page to (Comp Plan update) include pre-application coordination with stakeholders to review and address concerns/potential impacts?

15% slope sounds reasonable. Siting solar installations on sloping lands will help ensure they are kept away from tillable or irrigable ground.

The rule's location criteria for being "within 5 miles of electrical transmission" presumes that only grid-tied "utility-scale" solar energy facilities are worthy of consideration for

accomplishing Oregon's renewable energy portfolio goals. Where and how are energy policies being considered that would incentivize and facilitate distributed energy systems and local/community microgrids that would be less dependent on interstate transmission lines, as well as the identified "Quality, Quantity and Location" criteria listed in the proposed Rule? Community microgrids would enhance local resiliency, could be more widely located and broadly distributed, and would not be reliant on the very time-consuming permitting and construction process for additional interstate transmission line capacity development.

The 5 mile limit is likely optimal, but other organizations and agencies are using other numbers.

I am not sure whether it makes sense to include a specific Capacity Factor (whether 22-24% or otherwise) at subsection (5)(a). I believe we heard at one of the previous meetings that pretty much all of Oregon has sufficiently high Capacity Factor for utility-scale solar (and that distance to transmission is the more important constraint). It also seems that any Capacity Factor threshold will have the functional effect of directing solar development toward SE OR while excluding most of NE OR from the overlay. Is this desirable, or is the Capacity Factor threshold essentially arbitrary? Should make sure we're not excluding actually-suitable lands based on an arbitrary threshold number.

There is sufficient Annual Solar Capacity Factor in all areas of Eastern Oregon - the scope of available sites should not be limited to a certain capacity factor area. Whether a transmission distance of 5 miles is adequate depends on whether there is going to be a voltage restriction on electrical transmission lines (there is not one in the green corridor rule). If there is a voltage restriction (e.g. 115kV or greater) then 5 miles is too narrow - as noted in prior RAC meetings, some of the best locations may be further from existing transmission lines. Slope of 15% grade is a reasonable benchmark.

Maybe include available capacity of the transmission lines.

I missed the last RAC meeting so I am still catching up and will understand more after the next meeting. Also in the future it would be helpful to have page numbers on packet, or refer to page number of rules, to better cross-check referenced subsections

I think it is correct to pick a specified distance from electrical transmission. I think you need to specify the kV of transmission however. I think it should at least be 115 kV (?) or above based on the resolution of ORESA and the transmission that is mapped there. You could put in a distance to sub-station.

I recall conversation at the last meeting that the capacity factor requirement should be fairly expansive; will defer to others on what the minimum should be but potentially lower than 22%.

I think it's a good starting point. I did gather from our meeting in Burns that the developers have invested in developing sites as far as 10 acres in distance from a substation. (This was mentioned in a your comments and I agree it should act as a reasonable starting spot).

seems unnecessary to have a solar resource value - that may be an unnecessary screening tool. Also, unclear on what constitutes a transmission line for the second factor and how is slope determined under the third factor?

"(a) An estimated Annual Solar Utility-Scale Capacity Factor of at least 22-24 percent" may leave out certain parts of Eastern Oregon that may still be usable by counties and developers for solar.

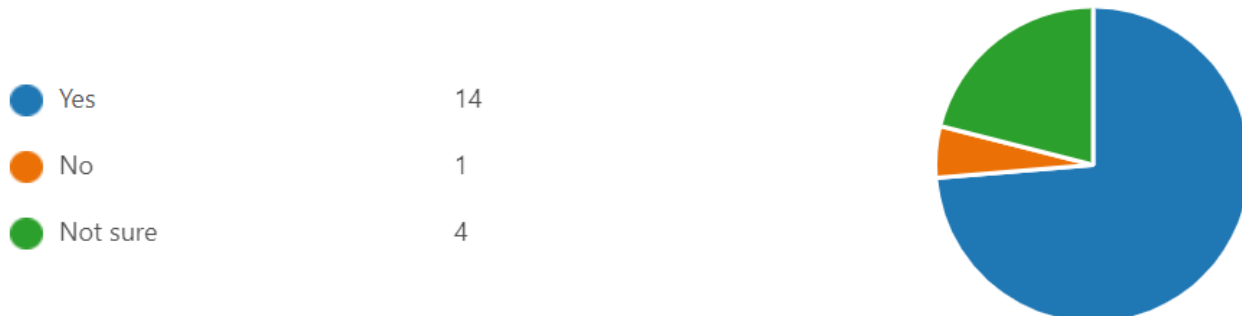
"(b) Located within 5 miles of electrical transmission" may end up being unintentionally restrictive. Maybe we can extend this to 7? I'd like to hear again from the developers if they need less than 15%.

This is difficult to measure because at this point, if there is an available least-conflict area that doesn't meet all of these criteria, a developer may still be interested. While it will be helpful for counties to do this exercise, the most important thing for developers to know is where they should not develop.

If we do move forward with these requirements, we may need to communicate that these are not always "required" characteristics for solar to be developed.

a) Solar capacity factor does not need to be a major factor in determining the quality of a location. Eastern Oregon as a whole has enough solar resource to facilitate "good" solar projects. I have not heard of any developers who have considered solar resource as a major factor in siting. b) The 5 mile component here is too narrow and unspecific. The 5 mile buffer might work if we include all transmission lines, but most projects of scale will only start accessing lines over 69 kV. If we set a floor, there is possibility of generation tie lines being long enough to go beyond these 5 mile buffers. Also as written this zone is unspecific on what must be included in the buffer (the whole project? the point of interconnection?). I think a "majority of the site" standard within the buffer zone is appropriate and will make sure facilities are not making key site decision based on the parameters of this rule (you can imagine projects bending over backwards to stay within a certain buffer zone).

6. As written, areas meeting subsection (5) can be considered “significant” and deserving of special consideration if the provisions of subsection (6) located on pages 22-24 of the meeting packet are also satisfied. Is this basic arrangement (Notable + Remarkable = Significant) understandable?



7. I have comments, questions observations on the above arrangement – 14 Responses

Would prefer to have discussion followed by approval or additional input

Recommend we refine J & K to include concerns with airspace at or below 500ft AGL.

Will this be accompanied by a map? Recommend we include one. Happy to send one over if you don't already have it.

Re D&E the military would request a G/G analysis for proposals with airspace at or below 500ft AGL

I will need to think some more about what 'Nonarable Land' representing eastern Oregon's best rangeland might imply. One thing that may limit the impact is the rule? constraint? that would keep solar installations within five miles of transmission lines. If that is mapped, then perhaps the amount of affected rangeland is minimized automatically. Thank you for providing a reference to the administrative rule that addresses it.

Where are "Notable" and "Remarkable" defined/clarified to then equate to "Significant"?

Need to further explore Habitat Category 3 & 4 for potential inclusion with this.

In theory it does so long as we can develop some protections for non-arable lands.

I am somewhat confused by the distinction and do not see the word "remarkable" in the proposed rule. Should subsection (5) just be subsection (a) of subsection (6) instead?

Same as stated above in 5, having no knowledge of available capacity of the transmission lines hard to determine if a site is suitable for a successful development.

Recognize this is a work in progress but wording is a little confusing. I had to re-read several times to determine the "if" and "then" components.

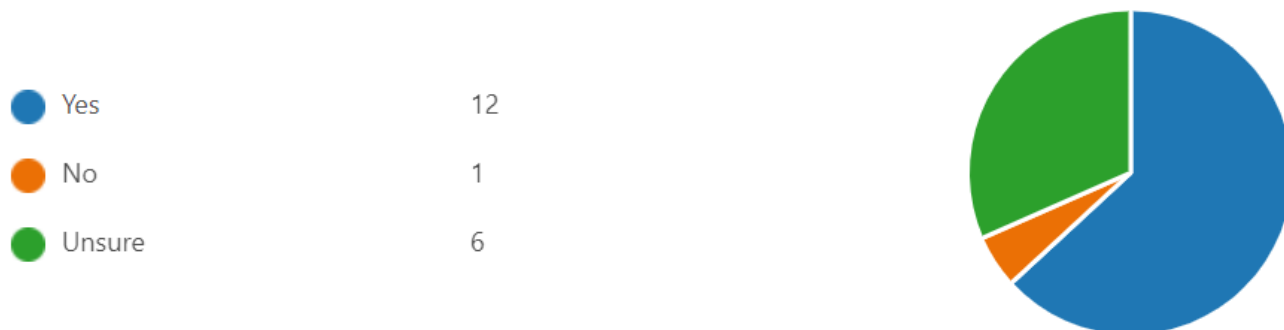
Yes. It seems to me that subsection (5) maps on the the adequacy, location, quality and quantity criteria found in OAR 660-023-0030(3)(a), (b), and (c). However, I think other aspects of "quality" for a utility scale solar facility includes not just the distance from transmission, but also the capacity of the line, the kV of the line, and the distance to a substation. I'm not sure I see where the language of "notable + remarkable" fits in. However, I agree that significance for solar must be based on the presence and quantity and quality of the solar resource AND the absence or relative absence of conflicts with other resources and other Goals, such as wildlife, good farm and ranch land, and forest land

Its understandable but not sure its the right factors for determining significant. Also, there needs to be other considerations that a county could apply to deem something significant notwithstanding all the factors

The arrangement is understandable. I have concerns about whether counties will be able to identify lands for solar that follow (6)(a). Off hand, it makes sense to require mitigation if one of the categories from (6)(b) is present, but I wonder how much land will end up in each category.

I just don't think the calculation of Notable + Remarkable = Significant really matches the rule as written which pretty much is all related to exclusion areas for solar. Remarkable things for solar include things like low slope but also should include things like being within a federally designated energy community or located on lands that have a higher and better use as renewable energy generation (for example lands with little rain and no irrigation water). Under the current rules as formatted, you don't really get points for those things. I think the approach from OSSIA better gets at this by focusing on Goal 2 reasons and highlighting where these projects should be located without disallowing projects if they do not hit all of those marks.

8. Subsection (6)(a) & (b) located on pages 22-24 of the meeting packed list areas to be avoided and areas that can be mitigated. Is this basic arrangement understandable?



9. Are there areas or types of lands that should be added or removed from these lists –
11 Responses

I would like the TAC to look at this

Would prefer to have in person discussion followed by approval or additional input

NA for Military

Growing season (or the lack thereof) is never mentioned. If an area has a frost-free growing period of 45? 60? days, would that also be a consideration, regardless of the soil type?

Culturally/archeologically important locations. Identified scenic viewsheds.

No

Still not sure how dryland grains fits within this definition.

From (6)(b), I would exclude entirely Goal 4 lands between 20 and 50 cubic feet/acre/year. I do not think it is appropriate to allow any solar development on Goal 4 lands because of the conflict with the potential to sequester carbon. Lower production forest land may actually make sense to incentivize more management for carbon sequestration, especially if not currently being managed at all, which I suspect could be the case. At very least the threshold for (6)(b) should be at 40 cft/acre/year which is more consistent with caselaw. See *Whetherell v. Douglas County (Foley)* 62 Or LUBA 80, 90-91 (2010).

For sage grouse habitat, consider ways to integrate the "defend the core, grow the core" approach based on US DOI maps to the extent this can be done in coordination with state maps.

Not sure, I'd defer to the county folks

Please see my comments below (sorry this short response area is hard to write a lot in)

10. I have comments, questions, observations on subsection (6) -13 Responses

I would like the TAC to look at this

Would prefer to have in person discussion followed by approval or additional input

A little unclear re question #8 - let me know if you want me to chime in and we can discuss a bit more. Guessing we are NA based on my read.

The basic arrangement is understandable, but additional guidance on what would qualify as acceptable/satisfactory "mitigation" needs to be clarified.

Comment specific to forest land: The approach to Goal 4 lands seems reasonable and understandable (as does the overall structure). Broadly speaking ODF advocates for no net loss of Oregon's forest land, and I'd also emphasize that in climate/carbon terms it is counterproductive and undesirable to clear carbon-storing forests for energy development. Accordingly, I think the approach taken here is appropriate (i.e., Goal 4 lands generally excluded from the overlay zone, except in rare cases where everything else lines up).

No particular comments/concerns about other content (I'd defer to our partner agencies on elements other than the forest piece).

6bA adds confusion referencing single species. No mitigation is ever required for Cat 6 either.

I think the RAC should discuss and decide the scope of wildlife avoidance and mitigation areas, which area already covered under ODFW's regulations. There is likely also duplication / overlap with subsection (H) related to significant Goal 5 resources already included in comprehensive plans. It is difficult to conceptualize the narrowness of the approach for various types of land (high-value, arable, non-arable). I read this to say that solar will not be allowed on anything except for non-arable land that is also not good for grazing? That does not address the primary issue, which is that the thresholds for goal exceptions is too low (on all types of designated farmland). I do not agree that military zone should be excluded as solar can be placed in low-flight zone areas. I am not familiar with the Boardman Geographic Area of Concern and do not understand why that specific designation is called out. I do not know whether the production capacity of forest grounds is a reasonable metric and whether the proposed metrics are correct - I believe that should be a landowner's decision, and the issues related to forestry (recreation and hunting) are not addressed. Overall, I am confused why DLCD is proposing a scope of avoidance areas when the RAC has not discussed or made recommendations on these issues.

Similar to previous comments, this subsection will read better once we've agreed to what is included. Include all definitions in beginning so not needed to repeat (such as Arable, etc.)

I think you may need to re-word (6)(b). Problem: If you "satisfy the provisions of subsection (6)(a)" then you would not need to move on to (6)(b). Alternatively, if you need to rely on (6)(b), then in some cases, you cannot "satisfy the provisions of subsection (6)(a)." For example, if you have wildlife habitat category 3 referenced in (6)(b)(A), then you would fail (6)(a)(C), which says that significant pv resource do NOT include habitat category 1 to 4. You would not be able to "satisfy the provisions of subsection (6)(a)." Solution (added language in ALL CAPS): "For purposes of this rule, lands meeting the description of subsection (5) and that otherwise DO NOT satisfy the provisions of subsection (6)(a) may NONETHELESS be considered significant... when one of the following categories is present and mitigation as identified at section (14) of this rule is also required:"

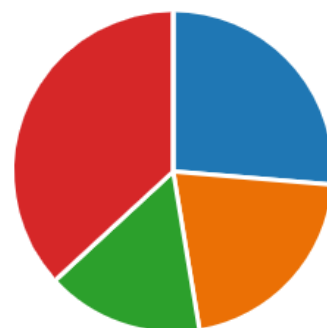
Attempting to identify the best rangeland on a broad scale may be a door we should be cautious opening.

As currently written, I don't really see how much these exclusion areas improve the state of solar siting. If anything, the protections for wildlife and military areas are less bespoke and prevent more nuance around solar siting than what we have today. While sage-grouse avoidance makes some sense, the connectivity areas are quite large and the wildlife designations are something much better managed on a site by site basis within the current mitigation process with ODFW. I do think that the military areas should not be excluded given the presentation we heard at the RAC meeting where it was noted as not a large concern and if anything glare studies are pretty standard already and processed through a different area. On the farmland protections, as present this just looks like what we already have on the ground today with the goal exception thresholds. I think it is important for us to move beyond the outdated and unspecific definitions of high value and arable lands definitions that are on the books now. As presented in the OSSIA, there are several ways to keep protections for the truly best farmland while allowing solar on lands that we know are not truly high value (lands with little rain and with no irrigation, lands designated within an AVA but could never truly support viticulture). These should be changed to acknowledge that reality of areas that are designated high value under the current rules but could be compatible with solar. While I think section B is a good idea and matches up with the OSSIA proposal of what to do with not perfect sites and acknowledges the role of mitigation, the rules as written do not really offer up more lands. Specifically, we should include in the arable (and I would argue high value) lands section that if you are in a water limited area you should be able to do some kind of economic analysis based mitigation of your off-site impacts to the agricultural economy to become a part of a "significant" area for solar. The current definition of not irrigated is not reality based, especially with the lookback for forever if the property has ever been irrigated. Water is not coming back to many lands in Oregon (at least for the foreseeable future) and farmers should be allowed to consider what

else to do with their land if they have no practical access to ground or irrigation water. The standard of "no longer irrigated" which actually relates to the 5 year look back that governs Oregon groundwater rights is much more appropriate (if you do not use your water rights in 5 years, they are technically subject to forfeit). I would also remove the military components given my comments earlier.

11. Subsections (7), (8), and (9) located on pages 24-25 of the meeting packet would offer counties a simple and straightforward way to address two basic elements of the standards Goal 5 process (conflicting uses, ESEE Analysis), while retaining local discretion to do more if they chose. Is this basic arrangement understandable? Does this approach raise any concerns?

● Yes, it's understandable and d...	5
● Yes, it's understandable but d...	4
● No, it isn't understandable	3
● Not sure	7
● Option 5	0



12. I have concerns, questions, observations on subsections (7), (8) and (9) – 12 Responses.

Would prefer to have discussion followed by approval or additional input

What happens if there are concerns? Unlikely with military but might be worth outlining how the military mitigated glint & glare and same goes for industry. Guessing other stakeholders might want to know what happens when there are concerns to - is the expectation the project will change locations or size, for example.

How would "dual use" (i.e., agrivoltaic) projects be addressed with respect to "conflicting uses". For example, replacement of agricultural land, or a significant footprint and interference with agricultural use may be considered a "conflicting use", but integrated "dual use" of agricultural land could be considered not to be a "conflicting use". How can the capacity of local governments to conduct credible ESEE analyses, with opportunities for public input and participation, be assured?

Need further explanation of what the county could choose not to limit.

Looks reasonable, but I don't have much familiarity/experience with county-level process. I'd defer to others here.

Subsections would benefit from header or title. Not sure if subsection 8 is sufficient. It could be how it's worded but it feels like something is missing. Is there applicable rule reference for ESEE analysis or is this new to DLCD rules?

I'm concerned that there could be very large areas of land that are considered significant solar resources, and that conflicting uses could include wildlife habitat, farm or forest practices or related uses, and that a county could push to have these excluded from the area. I think the Goal 5 rule for solar needs to be considered more as an overlay, and not as a use--like aggregate--that could potentially exclude all other uses. Based on the criteria of significance, there will be far more significant land than could ever be developed for solar based on available transmission capacity and need. I think the ESEE process should be modified or at least make clear, that a county could not use the Goal 5 process to exclude certain uses that are important for achieving other Goals.

This part is still confusing to me, in part because I'm not familiar enough with the standard process to know what is being eliminated (though appreciate having had the chance to get a first round of explanation in office hours--it might take me a couple more tries for this to all sink in).

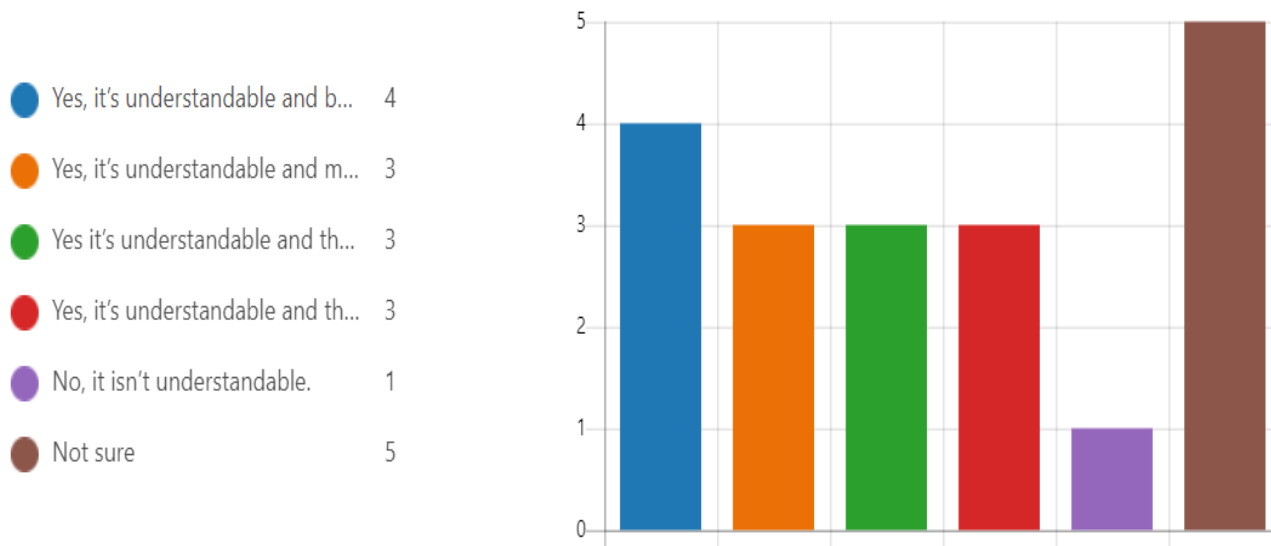
I'm not sure it raises concerns as it is, in a way, similar to say an aggregate overlay exception process. But how many folks participating in this process are familiar with it? It's bound to be asked, but what are at least a few examples of what this rule may consider conflicting uses?

I appreciate the high-level description in (7), but I am curious about the diction and specific callout of "aesthetic" reasons. Is the conflicting uses part not already covered in (6)(a) and (b)? Or is this section to cover other conflicting uses?

The first part of (8) is a bit confusing to me. "A local government can choose not to limit... conflicting uses until further analysis is complete." I appreciate the need to do further analysis (and limit conflicting uses in the alternative), but I worry about the overall timeline and funding to do the further analysis.

It just think this shows the shortcomings of the goal 5 strategy where the rule is set up to protect resources rather than spur development in certain areas.

13. Subsection (15) located on page 26 of the meeting packet presumes that counties choosing to use the rule would create a map of significant areas but retains the ability to consider individual applicant driven applications for specific sites. Is this basic arrangement understandable? Should it just be one or the other? Should the state adopt a map?



14. I have comments, questions, observations on subsection (15) – 14 Responses

I thought we wanted to avoid drawing a map

Would prefer to have discussion followed by approval or additional input

Shouldn't the state use ORESA which should be aligned with the information counties are showing? If not, OLDCC funds can do that.

The missing piece of the map (line capacity) strongly diminishes its utility

I like what you wrote in the sidebar: "Another option, not mentioned in the draft language, would be for LCDRC to adopt a state map that counties could choose to apply directly." I like the idea of the state producing a draft map that counties could then edit and approve. Mapping may be a cost that some counties would find cost prohibitive.

I have concerns that allowing/requiring outright use of locations within mapped solar resource areas may not provide local governments with the flexibility to consider extenuating concerns that only become apparent when specific projects are proposed. I also have concerns that this arrangement may preclude meaningful citizen involvement in siting decisions of specific projects within the mapped area.

I think that the best approach to mapping will depend on the specific set of factors being mapped. That is to say, I think subsections (5) and (6) should be more fully fleshed out before this issue is decided. I think it would be simplest and most efficient for the state to adopt a map IF the datasets being mapped are mostly statewide and can be applied generically to all counties (i.e., it would be pointless duplication of effort to make the counties all independently map the exact same things). On the other hand, if subsections (5) and (6) end up including substantial data that is mapped/implemented at the county level, then naturally counties would need to develop their own maps. In the abstract I am inclined to think that a state map is preferable, but it also seems clear that some amount of county-maintained data will be in play - e.g. local Goal 5 inventories at subsection (6)(a)(H) - which would complicate a statewide mapping effort. Maybe a middle path is possible (e.g., the state adopts a preliminary map covering most factors, and counties can finalize it with their own additional overlays?). Not sure. But in any case, I'd strongly advocate that the RAC needs to decide exactly WHAT will be mapped before it can reasonably decide WHO should be tasked with making a map.

Adopting maps raises many concerns for me. I think a criteria-based concept is the better approach.

If the goal is to provide greater local control then it does not make sense to have the state adopt a map at this time. After this is implemented and local governments are using these rules and mapping significant areas then it would be good to revisit this issue in the context of the rules.

I think the state should just adopt a map. At the very least we should use a map for the purpose of understanding how the criteria for significance avoid conflicts. I understand that developers are worried about a "land rush" if there's a map, but I think that rush has already happened. The developers already know where the substations are located, and they've all jockeyed very long ago to get options on land with the best potential. Based on the criteria discussed I do not think that a map is going to be so limited that there would not be enough land for a healthy market. Next, I think that this rule should be structured as a safe harbor and an opt out. I think the state should adopt a set of criteria for identifying a significant goal 5 resource as a safe harbor within minimum standards to avoid conflicts. The state should also identify minimum standards for mitigation programs to ensure that they actually mitigate the conflict. And counties should be automatically opted in, or have the ability to process applications based on LCDC's rules outlined here. If counties want to create a different set of criteria for significance or exclude other areas than listed here, then I think the rule should allow them to make a decision to conduct their own process on a set timeline.

Looking forward to hearing others' perspective on the mapping issue. It seems like relying on criteria rather than maps might limit issues with maps needing to get updated (e.g. due to new transmission projects, changes in other definitions/protections, etc.), so I would probably lean against requiring a county-level map that could be a bottleneck for implementation.

This is a winner if a county can choose to implement this rule through a local mapping product or on an proposal basis. Lets establish community flexibility to in this space if possible. I'm not sure a state map is the answer yet.

While it will be helpful for counties to create a map, individual sites shall also be considerable. Maps may take a long time for counties to complete. Therefore, they should not be required before projects may be approved. I'd be curious to hear more about the state map. Could this be used until the county has their own?

The work that the counties need to do here is concerning given the limited resources. I have heard that money will be limited in the next legislative session and we are saying that local governments should be adopting plan ammendments and doing mapping, it just seems like an unfunded mandate. While having this voluntary would be nice, it also pushes a lot of work on the counties. I think more of an opt out approach with standards set in the rule (rely on standards rather than maps) would be more appropriate and feasible.

15. Is there any additional support you may need regarding the above subsections? (e.g., one-on-one meeting with DLCD staff, additional background information, a workshop/webinar session) – 6 Responses

You are doing a good job of providing us information. For a neophyte like myself when it comes to Land Use Planning language, your abundance of information is appreciated.

Need additional information about current and planned increases in transmission capacity. Need information on alternatives to grid-tied, utility-scale solar generation for helping to achieve Oregon's renewable energy portfolio goals. Where is the policy articulated for achieving Oregon's renewable energy portfolio goals?

Yes I have concerns about this overall approach without addressing Goals 2, 3, and/or 4 directly. I would like to follow up with DLCD to discuss this concern.

6b, 7, 8, 9 are the areas I think I need more background/support on.

I would like to understand subsections (7) and (8) better. I would also like to discuss the mapping options more. I would appreciate a one-on-one meeting with DLCD staff if possible. A workshop could also work!

16. Overall, I have suggestions for improvement or additional thoughts/reflections – 6 Responses

The non-participation by the utilities that own and control transmission lines, which is the most significant controlling criteria for this proposed Rule, continues to trouble me. We are required to accept and work with the status quo. There are no opportunities for considering alternative approaches to achieving Oregon's renewable energy portfolio goals. I would also like to see PUC involvement to clarify future-oriented policy planning efforts and opportunities for addressing identified bottlenecks and inefficiencies to accommodating additional renewable energy generation.

I agree more with the approach proposed by OSSIA.

I would like to see these areas roughly mapped so that the people on the RAC can understand what constitutes (6)(a) and (6)(b). Next, I think it would be worthwhile to have a discussion about whether there should be limits on the overall size of a project. As it stands, if you can avoid or mitigate impacts, then you may not need to consider size. But it could come up, for instance, as written, the rules could potentially allow 20,000 acre projects or groups of projects. These may be impossible to mitigate in the same way that a 500 acre project could be.

We need to be considering how to streamline implementation and make it easy for counties to opt in. This could even mean exploring rules that make opting in the default, but still allowing counties to hold their own processes to customize or opt out within a set amount of time.

Overall, I am concerned about the timeline in which counties can adopt and implement maps, as well as their ability to continually update them with good data. I am also concerned about the fact that counties are not guaranteed funding. It raises questions around whether counties will actually be willing and able to site solar with the new rules. Will this result in streamlining solar siting in Eastern Oregon quick enough? I am very interested in getting to the other divisions (4,6, and 33).

While I appreciate staff trying to get things written down on paper, I think this rule as written doesn't really change much and if anything goes against the spirit of HB 3409. You have OSSIA and hopefully other providing other rule language but it seems like DLCD is moving ahead with its own ideas that do not match what is happening in the RAC meetings and discussions. These rules should come from the RAC, not DLCD and I think the balance is off there right now.

Skeletal Outline of Possible Revisions to Other Administrative Rules

Division 33 – Agricultural Land

- Temp Workforce Housing.
 - Add to Definition of “Photovoltaic Solar Energy Generation Facility” similar what is provided for Wind Facilities?

“... and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a wind 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.”
 - Address as part of application?
- Agrivoltaics.
 - Where does this fit?
 - Stand alone revisions to Division 33, integrated as part of Division 23 program? Both, neither?
- Retirement/Decommissioning.
 - Should this be addressed as part of an application?
 - Are provisions at ORS 215.446 sufficient?
- Updated Acreage Thresholds to align with new Goal 5 provisions in Division 23.
 - Program to Achieve the Goal Questions:
 - How large? Do they go all the way to the EFSC Threshold (240, 2,560, 3,840)?
 - Do different circumstances warrant different sizes?
- Farm & Forest Compatibility Criteria – ORS 215.296/OAR 660-033-0130(5).

“(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 surrounding lands devoted to farm or forest use.”

- Currently being updated to codify existing case law.
- Should this discretionary test be interpreted to provide more clear and objective approval standards for solar projects deserving special consideration? For example, the rules for Temporary Emergency Campgrounds on Agricultural Lands read in relevant part:

“(e) For applications submitted under subsection (c) of this section, the criteria of section (5)¹ can be found to be satisfied when:

(A) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.

(B) The subject property is not irrigated.

(C) The subject property is not high-value farmland.

(D) The number of proposed campsites does not exceed 12; or

(E) The number of proposed campsites does not exceed 36; and

(F) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goal 3, Goal 4, or both.

- Other?
 - Should anything else be considered to compliment revisions to Division 23?

¹ “section (5)” refers to the provisions of OAR 660-033-0130(5), which implements ORS 215.296.

Division 6 – Forestland

- Definition. Division 6 does not currently include a definition of Photovoltaic Solar Energy Generation Facility.
 - Borrow Definition from Division 33?
- Temp Workforce Housing.
 - Should this be accounted for on Forestland?
 - Address as part of application?
- Retirement/Decommissioning.
 - Should this be addressed as part of an application?
 - Are provisions at ORS 215.446 sufficient?
- Updated Acreage Threshold to align with new Goal 5 provisions in Division 23.
 - Program to Achieve the Goal Questions:
 - How large? Should it go all the way to the EFSC Threshold (3,840)?
 - Do different circumstances warrant different sizes?
- Forest Compatibility Criteria – OAR 660-006-0025(5)

“(5) A use authorized by section (4) of this rule may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s), (t) and (w) of this rule.”

 - Should this discretionary test be interpreted to provide more clear and objective approval standards for solar projects deserving special consideration? For example, the rules for Temporary Emergency Campgrounds on Forest Lands read in relevant part:

“(D) For applications submitted under paragraph (B) of this rule, the county may find the criteria of section (5)² to be satisfied when:

(i) The Governor has issued an Executive Order declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq.

(ii) The number of proposed campsites does not exceed 12; or

(iii) The number of proposed campsites does not exceed 36; and

(iv) Campsites and other campground facilities are located at least 660 feet from adjacent lands planned and zoned for resource use under Goals 3, 4, or both.”

- Other?

- Should anything else be considered to compliment revisions to Division 23?

² “section (5)” refers to the provisions of OAR 660-006-0025(5).

Division 4 – Exceptions

- Post Exception Zoning.
 - Clarify that lands subject to an exception allowing a larger project size continue to be subject applicable Goal 3/4 provisions.
- Other?