

# **EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #5**



**TO:** Solar Siting Rulemaking Advisory Committee Members  
**FROM:** Adam Tate, Renewable Energy Planner  
**SUBJECT:** Rulemaking Advisory Committee (RAC) Meeting Packet #5

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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 fourth RAC meeting in Madras. Our focus now turns to Moro and Sherman County for our fifth RAC meeting on Wednesday, August 28th. This meeting will continue our deep dive into draft rule language for Division 23, updates from some of our Technical Advisory Committees, and discussion of draft rules for Divisions 33, 6, and 4.

As with our previous meetings, there will be an optional tour which will take place on Tuesday the 27<sup>th</sup> from approximately 1:00 to 4:00 pm, it will be a tour of moderate to large sized solar sites, substations, Conservation Reserve Program lands, harvested and fallowed wheat fields, and wildlife habitat. A special thank you to Judge Joe Dabulskis from Sherman County who is providing us with one of the County's 16 passenger busses he will drive. The other vehicle will be a 15-passenger van driven by Jon Jinings. Vehicles will depart from Burnet Building located at 66365 Lone Rock Rd, Moro, OR 97039.

## **Desired Outcomes**

- Reach alignment on and move forward with Division 23 language.
- Discussion of Divisions 33, 4, and 6.
- Shared understanding of Technical Advisory Committee work and outcomes.

## **RAC Meeting Packet Contents:**

1. Cover Memo
2. Agenda
3. Summary from fourth RAC Meeting & Themes from RAC member notes
4. Draft Rule Updates for Divisions 23, 33, 4, and 6.

The meeting will be held in the Burnet Building, located at 66365 Lone Rock Rd, Moro, OR 97039. The meeting will run from 10:00 AM to 5:00 pm with a working lunch at 12:45 pm 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](mailto: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, August 28, 2024, from 10:00 am – 5:00 pm PT

- The meeting will be held in the **Burnet Building located at 66365 Lone Rock Rd, Moro, OR 97039**
- 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.
- Discussion of Divisions 33, 4, and 6.
- Shared understanding of Technical Advisory Committee work and outcomes.

#### Optional Tour

DLCD will be hosting an optional tour for RAC members on Tuesday, August 27, 2024 from 1:00 pm – 4:00 pm PT. The tour will include seeing moderate to large sized solar sites, substations, Conservation Reserve Program lands, harvested and followed wheat fields, and wildlife habitat. Vans will depart from Burnet Building located at 66365 Lone Rock Rd, Moro, OR 97039.

#### Public Outreach Event

DLCD will be hosting an open house on Tuesday, August 27, 2024, from 6:00 – 7:30 pm PT in the **Burnet Building located at 66365 Lone Rock Rd, Moro, OR 97039**.

#### Tuesday, August 27, 2024 Agenda

*RAC Member participation optional*

| Time (PT)                 | Topic                       | Lead  |
|---------------------------|-----------------------------|---|
| 1:00 – 4:00 pm (estimate) | <b>Tour: Sherman County</b> | Department of Land Conservation and Development |



|                               |   |   |
|-------------------------------|---|---|
| 6:00 –<br>7:30 pm<br>(90 min) | <b>Public Outreach Event</b> <ul style="list-style-type: none"> <li>• Brief presentation of RAC purpose</li> <li>• Opportunity for Q&amp;A</li> </ul> | Department of Land Conservation and Development |
|-------------------------------|---|---|

### **Wednesday, August 28, 2024 Solar RAC Meeting Agenda**

| Time (PT)                          | Topic  | Lead   |
|------------------------------------|--|--|
| 10:00 –<br>10:15 am<br>(15 min)    | <b>Welcome, Opening Remarks, and Agenda Review</b>   | Jamie Damon,<br>Kearns & West<br>Facilitator |
| 10:15 –<br>11:15 am<br>(60 min)    | <b>Divisions 33 and 6</b> <ul style="list-style-type: none"> <li>• Overview of draft language</li> <li>• Large group discussion</li> </ul>   | All  |
| 11:15 am –<br>12:45 pm<br>(90 min) | <b>TAC Updates</b> <ul style="list-style-type: none"> <li>• <b>Wildlife Mitigation</b></li> <li>• <b>Agriculture and Forestry</b> <ul style="list-style-type: none"> <li>○ Each TAC to offer highlights of where they are in their process and offer recommendations or pose questions for the RAC to gather feedback</li> <li>○ RAC discussion</li> </ul> </li> </ul> | All  |
| 12:45 –<br>1:15 pm<br>(30 min)     | <b>Lunch Break</b>   | All  |
| 1:15 –<br>2:30 pm<br>(75 min)      | <b>TAC Updates</b> <ul style="list-style-type: none"> <li>• <b>Community Benefits</b></li> <li>• <b>Implementation</b> <ul style="list-style-type: none"> <li>○ Each TAC to offer highlights of where they are in their process and offer recommendations or pose questions for the RAC to gather feedback</li> <li>○ RAC discussion</li> </ul> </li> </ul>            | All  |
| 2:30-2:45<br>(15)                  | <b>Break</b>   |  |



|  |  |                               |
|--|--|-------------------------------|
| 2:45 –<br>4:15 pm<br>(90 min)                          | <b>Division 23 Continued</b> <ul style="list-style-type: none"><li>• Recap – from July</li><li>• Highlight remaining topics</li><li>• Large group discussion</li></ul> | All                           |
| 4:15 –<br>4:30 pm or<br>later if<br>needed<br>(15 min) | <b>Next Steps and Closing</b>  | Jamie Damon,<br>Kearns & West |
| 4:30 pm or<br>5:00 pm if<br>needed                     | <b>Meeting Adjourn</b>   |                               |



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

July 17, 2024, RAC Meeting #4

**Location:** Central Oregon Community College, Madras, Oregon, and Zoom Webinar. An optional tour was from 2:00 -4:00 the day before the meeting.

This meeting was livestreamed and recorded, available for viewing at <https://www.youtube.com/Oregondlcd>. Therefore, this summary will remain at a high-level overview. Please review the recording and archived meeting packet for details and presentation slides.

## Meeting Attendees

### RAC Member Attendees:

- Andrew Mulkey, 1000 Friends of Oregon
- Mike W. McArthur, Community Renewable Energy Association
- Elaine Albrich, Davis Wright Tremain
- 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
- Mike Totey, Oregon Hunters Association
- Jack Watson, Oregon Solar+Storage Industries Association
- Ken Yates, Oregon Water Resources Congress
- Steve Knudsen, Retired - Bonneville Power Association
- Dugan Marieb, Pine Gate Renewables
- Emily Griffith, Renewable Northwest
- Max Greene, Renewable Northwest (Alternate)
- Bill Richardson, Rocky Mountain Elk Foundation
- Laura Tabor, The Nature Conservancy
- Jack Southworth, Oregon Cattlemen's Association
- Nicole Mann, Oregon Wheat Growers League
- Brandon McMullen, Harney County Planning Director

### Ex-Officio Attendees:

- Jim Johnson, Oregon Department of Agriculture
- Jeremy Thompson, Oregon Department of Fish & Wildlife (ODFW)
- Dan Hubner, Oregon Department of Forestry



- Shawn Zumwalt, Oregon Department of State Lands (DSL)
- Randy Bentz, Oregon Military Department (OMD)
- Chad Higgins, Oregon State University (OSU)
- Mike Darin, Oregon Department of Geology and Mineral Industries (DOGAMI)

**DLCD Staff Attendees:**

- Angie Brewer, 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)
- Casaria Taylor, Oregon Department of Land Conservation and Development (DLCD)

**Additional Attendees:**

- Mickey Killingsworth, Oregon Farm Bureau
- Josie Altman, Dalton Advocacy Intern

## 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 and objectives and facilitated introductions between RAC members.

Mickey Killingsworth, Jefferson County Farm Bureau, provided welcoming remarks and an overview of the optional tour the day before. Tour attendees visited solar farms and learned about crop planting for carrot seed, grass seed, and tea. Mickey also provided an overview of foundational agricultural lands and water rights.

RAC members had the following questions:

- Question: Are foundational lands mapped?
  - Oregon Farm Bureau response: No, there is a bill underway that if passed would map these lands.
  - Oregon Department of Agriculture response: The term foundational land is from the agricultural industry. It is meant to convey the importance of critical ag lands for maintaining the economic viability of a community.
- Question: How much planning for agriculture is done in advance?
  - Oregon Farm Bureau response: It depends on your contract and farming skills. Contracts are usually around five years and consider what ground a farmer has and how long and what they have been farming.
- Question: How much agricultural production is in grazing and how has the drought affected agriculture?
  - Oregon Farm Bureau response: About 12% is for grazing. Drought has impacted water rights and high-value crop production. For example, some farmers give water



rights to others to help them if needed, while other farmers purchase or lease water for thousands of dollars. Additionally, energy is required to run water so energy availability and cost are factors. Jefferson County has one of the top irrigation districts because we recycle a large percentage of our water. We can use the same water up to 15 times.

- Question: What are alternatives to decreased water viability to maintain profitability in Central Oregon?
  - Oregon Farm Bureau response: The Central Valley is well-dependent, Jefferson County is not a well county, so I am not sure what would be a good alternative. I believe creating efficiencies would be the only solution.

## Division 23 Sections 1-6

Jon Jinings, DLCD, reviewed RAC's jurisdiction and charge and reflected on how RAC member feedback was incorporated into the rule language for Division 23 Sections 1-6. He asked for the RAC to focus on the determination of significance.

Jamie facilitated a discussion between RAC members primarily focused on Section 6. Key themes of the RAC's discussion include:

- **Transmission.** Members discussed rules surrounding transmission lines. Multiple members shared concerns about proximity requirements. Some members suggested keeping transmission as a screening factor but simplifying the language to a power purchase agreement (PPA), others suggested setting transmission language to a threshold and using proximity as the primary screening factor that can be mapped. One member suggested removing Subsection A regarding the 69 KV transmission line. One member suggested tying transmission definitions and rules to the concurrent Bureau of Land Management (BLM) process. RAC members agreed to form a Transmission-focused Technical Advisory Committee (TAC) to discuss these items more in-depth.
- **Economics.** Members discussed economic factors and market considerations. Multiple members noted that technology and economics will change over time and should not be referenced in the rules. Some members stated that market forces, rather than regulatory decisions, should dictate the feasibility of connecting to transmission lines. Members discussed the development process in-depth and noted that developers seek locations with ample interconnection options to enhance project viability. Other members noted that the current rules are intended to provide a starting point for proximity to ensure solar sites can be connected to transmission. Many members expressed concern about the microgrid definition and how rules would impact smaller, community projects. DLCD clarified that transmission rules would not apply to smaller, community projects.
- **Energy need.** Members discussed data centers and their impact on energy operations in Oregon. Multiple members noted that data centers used a high amount of energy, and many new centers were planned for the next decade. Current energy projections may not fully account for the energy use of these centers.





- **Federal consistency.** Consistency with federal regulations and mapping transmission distances were mentioned as important considerations.

Jamie reviewed the key themes and questions that came out of the discussion. She asked the RAC the following questions.

- Is Section 6 necessary?
  - RAC members agreed that it was and that a new technical advisory committee (TAC) for transmission would be formed to discuss further.
- Do these rules apply to microgrids?
  - Some RAC members shared that other solar rules and local regulations already address this topic. The group indicated they were leaning towards not explicitly including microgrid applicability in the rule.

## Division 23, Section 7

Jon reviewed Division 23 Section 7. Jamie facilitated a discussion between RAC members. Key themes of the RAC's discussion include:

- **Constraints and possibilities.** Members discussed how sections 7a and 7b were related, and expressed consensus that section 7a defines constraints and that 7b defines possibilities. One member suggested removing 7b line 30 “all provisions satisfied.”
- **Wildlife.** Members discussed wildlife criteria. Members agreed that certain areas, such as sage-grouse habitat and key migration corridors should be avoided. Members indicated that all development should comply with ORS 215.416 and Oregon Department of Fish and Wildlife's Habitat Categorization Policy, and that mitigation should be required for Category 3 and 4. Members noted that proposed projects also go through the Conditional Use Permit (CUP) process, which may include mitigation requirements. One member emphasized the importance of counties using their own wildlife mapping data. Another member advocated using more updated data from sources like ODFW.
- **Land use.** Members discussed the need to balance land for solar projects with agricultural lands, forest lands, military training areas, and other valuable lands.
  - Members discussed what lands should be avoided for solar projects and under what circumstances certain lands may be reconsidered if mitigation measures are implemented. For instance, low-quality agricultural lands, land within certain urban growth boundaries, and certain wildlife habitats could be considered if appropriate mitigation is applied.
  - Multiple members encouraged development in less impacted areas to minimize mitigation burdens and align rule language with wind siting guidelines to support projects with minimal environmental impact.
  - Members discussed urban growth boundaries (UGBs) and urban reserves. Members raised concerns about the impact of urban reserves on wildlife, natural resources, and potential solar land. One member noted that jurisdictions in Central and Eastern Oregon have had trouble expanding their UGBs over the past decade, often due to their proximity to high-value farmland. Members discussed the role of



jurisdictions' managing lands, with multiple members advocating that regulations about UGBs should be made through local processes rather than imposing uniform state-wide restrictions via this rule.

- **Agricultural lands.** Members discussed solar impacts on agricultural lands and stated there needs to be more time for discussion and consideration. There was concern about retaining foundational lands and avoiding checkerboard development.
  - **Definition.** The group indicated some support for rules that recognize the accessory use of solar for agricultural purposes while others were concerned that high-value farmland would not be used to its fullest capacity. Some members advocated against a definition of high-value farmland whose definition is based on yield, others advocated for classifying farmland based on soil type, and a few others had concerns about soil mapping. Members discussed how irrigated lands should be defined, and if lands have not been irrigated for a determined number of years, those lands could be developed.
  - **Water rights.** The group discussed farmland's relationship to water rights and some members shared that the rules should not impact water rights transfers. One member supported a definition of mitigation that ties directly to agricultural water rights.
  - **Mitigation.** Members voiced concerns about how impacts from solar projects could be effectively mitigated.
- **Process.** Members noted that this rule should be an alternate pathway for project approval that simplifies the process, ensuring standards are met without overlapping with other regulatory processes.
- **County uniqueness.** Members discussed unique community attributes and noted that each project would have impacts and hurdles unique to each county. Members agreed that “non-mappable” items should be addressed on a project-by-project basis.

Jamie reviewed the key themes and questions that came out of the discussion. She asked the RAC the following questions.

- What does the RAC want to protect?
  - RAC members replied that high-value farmland, good soils, and actively irrigated lands should be protected. There was still discussion to be had on these definitions.
- Where could some development be allowed?
  - RAC members replied that rangeland, non-high-value land, or previously irrigated sites could be developed with some flexibility.
- Where could development be allowed?
  - RAC members replied that cheatgrass and low to no-value land could be developed.

RAC members agreed on the need to review agricultural rules further in the Agricultural TAC.



## Division 23, Sections 11 and 12

Jon reviewed Division 23. Jamie facilitated a discussion between RAC members. Key themes of the RAC's discussion include:

- **Mitigation.** One member asked for the “mitigation” section to be moved to section 7b. Another member suggested mitigation should be provided in close proximity to the impact site.
- **Community benefits.** Members shared a need to connect community benefits to a clear metric, such as community infrastructure, services, or resiliency. Some members thought that a community benefit pilot program may be beneficial. Members discussed whether the county, state, or developer should be responsible for delivering community benefits. Members highlighted the importance of public engagement.
- **Process.** Members suggested a need for negotiation to allow for an expedited land use process.
- **Incentives.** Some members suggested that the rule consider tax incentives from the state and potentially connect directly with the Oregon Energy Strategy.
- **Decommissioning.** One member advocated that decommissioning plan guidelines be written into Section 11.
- **Achieving Outcomes and Goals.** Members discussed that projects should demonstrate they are benefiting Oregon. One member suggested using the New York State Energy Research and Development Authority's Smart Solar Siting Scorecard as a model for developing an Oregon rubric to determine project effectiveness. Other members suggested not including this in the rule and to determine other ways to address this.
- **Power Purchase Agreement (PPA).** The group agreed to remove the PPA requirement in the current rules.

## Closing and Next Steps

Jon thanked everyone for their participation. The group discussed upcoming meetings and agreed that adding an additional RAC meeting in August would be beneficial to ensure enough time was spent by RAC members on this ruleset. Group members were supportive of more in person and longer meetings. Jamie stated that the currently planned September meeting would be pushed back and a new meeting in August would be added in.

Next steps:

- DLCD to incorporate feedback and share updated draft rule language. Which is found in the August 28<sup>th</sup> RAC Meeting packet.
- DLCD to create a Transmission TAC, update current TAC membership, and continue discussions and work in each TAC. The Transmission TAC also featured a presentation and discussion with BPA Transmission Staff.
- DLCD to send out future meeting scheduling polls. The next RAC meeting is scheduled for August 28<sup>th</sup>.
- RAC members to respond to scheduling polls.



## Meeting Adjourn

The meeting adjourned at 4:30 pm PT.

## RAC Member Meeting Notes

A component of the meeting was asking the RAC members to write out their meeting notes on the proposed rule language documents. Far fewer notes were turned in this time, the handout on Division 23: 660-023-0195 Photovoltaic Solar Energy Resources had the most extensive notes received but the comments received were close enough to what was captured in the meeting summary and subsequent TAC meetings that it would be redundant to include it here. If we receive more notes at future meetings this section will go into more detail like it has in the past.

**660-023-0195**

**Photovoltaic Solar Energy Resources**

(1) Introduction and Intent. 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) through (15). Furthermore, this rule is designed to assist local governments in eastern Oregon to identify opportunities and reduce conflicts for the development of photovoltaic solar power energy generation facilities and provide appropriate, responsible levels of regulatory relief for projects that are proposed to be sited in areas determined to be significant. The provisions included herein are intended to help achieve the successful development of photovoltaic solar energy generation in eastern Oregon that:

- (a) Makes meaningful contributions to meeting the state's clean energy goals;
- (b) Increases potential for local governments and local residents to distinctly share in the benefits of said development; and
- (c) Suitably account for conflicts with the variety of values and resources identified for consideration pursuant to Section 35.(2) of HB 3409 (2023) and this rule.

(2) Definitions. For purposes of this rule the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010, OAR 660-033-0020 and OAR 660-033-0130(38) apply. In addition, the following definitions apply:

~~(a) "Above Ground Level (AGL)" means an aircraft flying altitude using the ground's surface (i.e., instead of mean sea level) as a point of reference.~~

~~(b) "Conservation Reserve Program (CRP)" means a land conservation program administered by the Farm Service Agency (FSA). In exchange for a yearly rental payment, farmers enrolled in the program agree to remove environmentally sensitive land from agricultural production and plant species that will improve environmental health and quality.~~

(c) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

~~(d) "Floor elevation" means the flying altitude where a Military Special Use Airspace or a Military Training Route begins.~~

~~(e) "Microgrid" means a self-sufficient energy system that serves a discrete geographic footprint, such as a college campus, hospital complex, business center or neighborhood.~~

(f) "Military Special Use Airspace" is airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, and/or wherein limitations may be imposed upon aircraft operations that are not a part of those

activities (FAA Order 7610.4K CHG 1, Section 1.3). Limitations may be imposed upon aircraft operations that are not a part of the airspace activities. Special use airspace includes any associated underlying surface and subsurface training areas.

~~(g) "Military Training Areas" are Military Special Use Airspace and Military Training Routes with a floor elevation of no greater than 500 feet above ground level (AGL).~~

(h) "Military Training Route (MTR)" means airspace of defined vertical and lateral dimensions established for the conduct of military flight training at indicated airspeeds in excess of 250 knots.

(i) "Oregon Renewable Energy Siting Assessment (ORESAs)" is a project funded by a U.S. Department of Defense Office of Local Defense community Cooperation grant awarded to the Oregon Department of Energy, working with the Department of Land Conservation & Development and Oregon State University's Institute for Natural Resources. ORESAs collected data and information through assessments to develop a report and mapping tool that provide an understanding of the opportunities and constraints that come with renewable energy and transmission development in Oregon. The ORESAs mapping tool is housed on Oregon Explorer.

(j) "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 (7)~~(a) or (7)(b)~~ of this rule. Photovoltaic solar resource areas are implemented through the adoption of a local program that includes an overlay zone and other ordinance provisions found to be consistent with the provisions of this rule that set forth applicable review procedures and criteria. Multiple photovoltaic solar energy generation facilities may be located within a photovoltaic solar resource area.

(k) "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 (7)~~(a)~~ of this rule. Photovoltaic solar resource sites include a single approval for photovoltaic solar energy development residing outside of a photovoltaic solar resource area. A county choosing to voluntarily implement the provisions of this rule may approve photovoltaic solar resource sites through direct application of subsections (6), (7) and (11) without the need for adopting a local program or a subsequent post-acknowledgement plan amendment.

(l) "Significant photovoltaic resource" means lands that have the necessary characteristics to support successful photovoltaic solar energy generation while also avoiding, minimizing or providing compensatory mitigation for conflicts with the variety of other important resources as identified at subsection (7). A significant photovoltaic solar resource may be identified as a photovoltaic solar resource area or considered as a photovoltaic solar resource site.

(k) "Transmission Line" has the meaning stated at ORS 758.012(b), which is a linear utility facility by which a utility provider transmits or transfers electricity from a point of origin or generation or between transfer stations.

(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 (12) to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites.

(5) A local government may use data from reliable online mapping tools, such as that included in the Oregon Renewable Energy Siting Assessment (ORESAs), to inform determinations made under subsections (6) and (7).

(6) Quality, Quantity, and Location. In order to be considered significant pursuant to subsection (7), lands under consideration as a potential photovoltaic solar resource area or a photovoltaic resource site must first be determined by the presiding local government to have adequate site characteristics, resource potential, and proximity to current and future transmission access and locations for potential interconnects necessary to support successful photovoltaic solar development. A determination under this subsection may be based on substantial evidence in the record, or, in the alternative a county may rely on the presence of all the following characteristics, which will be considered to comply with the requirements of this rule:

(a) Topography with a slope that is generally 15% or less.

(b) An estimated Annual Solar Utility-Scale Capacity Factor of at 19-21 percent or greater.

(c) Are located:

(A) Within 2 miles of a Transmission Line with a rating of up to 69 KV; or

(B) Within 5 miles of a Transmission Line with a rating ~~between 70 KV and up to~~ 115 KV; or

(C) Within 10 miles of a Transmission Line with a rating over 115 KV; or

~~(D) To provide electricity to a Microgrid.~~

(7) Determination of Significance. ~~For purposes of this rule, lands under consideration as a potential photovoltaic solar resource area or a photovoltaic resource site determined to satisfy subsection (6) shall be considered significant photovoltaic solar resources when they are found to be consistent with:~~

~~(a) The following areas are eligible for a determination of significance without the need for mitigation.~~

**Commented [JJ1]:** Reverses the order to begin with lands considered most suitable, followed by lands that can be suitable with mitigation, followed by lands that are not eligible.

**Commented [JJ2]:** Language not fully vetted by TACs. More info likely to be available at RAC meeting.

1 (A) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class  
2 VII and VIII.

3 (B) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class  
4 VI and do not have the ability to produce ? pounds of forage per acre per year.

5 (C) Lands protected under Goal 4 that are capable of producing 0 to 20 cubic feet per acre per  
6 year of wood fiber.

7 (D) Any lands protected under Goal 4 that have been significantly affected by wildfire.

8 (E) Wildlife Habitat characterized by features such as noxious weed infestation or other areas  
9 with little or no restoration potential.

**Commented [JJ3]:** Attempt at describing Cat 5 & 6 habitat in an eastern Oregoncentric manner.

10 (b) The following areas are eligible for a determination of significance when subject to the  
11 relevant mitigation requirements identified at Subsection (11) of this rule.

**Commented [JJ4]:** Language not fully vetted by TACs. More info likely to be available at RAC meeting.

12 (A) Mule Deer Winter Range, Rocky Mountain Elk Winter Range, Big Horn Sheep Habitat, and  
13 Pronghorn Essential and Limited Habitat as identified by the ORESA on-line mapping and  
14 reporting tool. The exact location of wildlife habitat may be refined during consideration of a  
15 specific project but must be done in consultation with ODFW.

16 (B) Wildlife Habitat characterized by older forested areas, big game summer range, and  
17 degraded rangelands. In the absence of easily obtainable data, a determination regarding  
18 wildlife habitat under this subsection may be deferred to a property specific assessment but  
19 must be done in consultation with ODFW.

**Commented [JJ5]:** Attempt to describe Cat 3 & 4 habitat in an eastern Oregoncentric manner.

20 (C) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class  
21 VI that have the ability to produce greater than ? pounds of forage per acre per year.

22 (D) Lands protected under Goal 3 that are not irrigated and comprised of soils with an  
23 agricultural capability class III, IV, or V.

24 (E) Lands protected under Goal 3 comprised of soils with an agricultural capability class II that  
25 have no past history of irrigation that have not been managed for the production of crops or  
26 livestock at any time during the previous five years.

**Commented [JJ6]:** This language is an attempt to describe lands included in the Conservation Reserve Program (CRP) that would otherwise not be eligible due to the presence of class II soils, which is considered a high-value farmland soil under ORS 25.710.

27 (F) Lands protected under Goal 3 that are included in an irrigation district or a federally  
28 recognized viticultural area that have no past history of irrigation.

**Commented [JJ7]:** This language is an attempt to describe areas considered high-value farmland based on the definition at ORS 195.300(10)©&(e)

29 (F) Lands protected under Goal 4 with a capability of producing from 20-85 cubic feet wood  
30 fiber/acre/year that do not include areas significantly affected by wildfire.

31 (G) Historic, Cultural or Archeological Resources. In the absence of easily obtainable data, a  
32 determination regarding the location of historic, cultural or archeological resources may be  
33 deferred to a property specific assessment but must be done in consultation with the Oregon



1 State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may  
2 be affected by the application.

3  
4 ~~(a) For purposes of this rule, lands under consideration as a potential photovoltaic solar~~  
5 ~~resource area or a photovoltaic resource site determined to satisfy subsection (6) shall be~~  
6 ~~considered significant photovoltaic solar resources when they do not include:~~

7  
8 (c) The following areas are not eligible for a determination of significance.

**Commented [JJ8]:** Language not fully vetted by TACs.  
More info likely to be available at RAC meeting.

9 (A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6). The exact location of  
10 wildlife habitat may be refined during consideration of a specific project but must be done in  
11 consultation with ODFW.

12 (B) Priority Wildlife Connectivity Areas as designated by the Oregon Department of Fish and  
13 Wildlife (ODFW). The exact location of wildlife habitat may be refined during consideration of a  
14 specific project but must be done in consultation with ODFW.

15 (C) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The exact  
16 location of wildlife habitat may be refined during consideration of a specific project but must be  
17 done in consultation with ODFW.

18 (D) Wildlife Habitat that cannot be mitigated. The exact location of wildlife habitat may be  
19 refined during consideration of a specific project but must be done in consultation with ODFW.

20 ~~(D) Other wildlife habitat designated Category 1-4 by ODFW. The exact location and category of~~  
21 ~~wildlife habitat may be refined during consideration of specific projects but must be done in~~  
22 ~~consultation with ODFW.~~

23 (E) High-Value Farmland Soils as described at OAR 660-033-0020(8)(a) except as provided under  
24 subsection (7)(b)(E). Lands protected under Goal 3 that meet the definition of high-value  
25 farmland at ORS 195.300(10).

**Commented [JJ9]:** Prime, Unique, Class I or Class II  
irrigated and Prime, Unique, Class I or Class II nonirrigated.  
This is the majority component of soils types identified in  
ORS 215.710.

26 (F) High-Value Farmland as defined at ORS 195.300(10) except as provided under subsection  
27 (7)(b)(F).

28 ~~(F) Lands protected under Goal 3 that were receiving water for purposes of irrigation on~~  
29 ~~January 1, 2024. Lands protected under Goal 3 that meet the definition of "irrigated" at OAR~~  
30 ~~660-033-0020(8).~~

31 ~~(G) Other lands protected under Goal 3 with an NRCS Agricultural Capability Classification of III~~  
32 ~~or IV.~~

(H) Lands protected under Goal 4 with a capability of producing greater than ~~8520~~ cubic feet wood fiber/acre/year that do not include areas that have been severely affected by wildfire, burned over in the previous ten years by wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610.

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

~~(J) Military Training Areas~~

(K) Lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.

~~(L) Lands within one mile of the urban growth boundary of a city with a population of at least 2,500 but not more than 10,000.~~

(M) Lands within one~~two~~ miles of the urban growth boundary of a city with a population of 10,000 or greater.

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

~~(b) For purposes of this rule, lands under consideration as a potential photovoltaic solar resource area determined to satisfy subsection (6) may be considered significant photovoltaic solar resources when Military Training Areas and up to one of the following additional categories is present and all other provisions of subsection (7)(a) have been satisfied~~

~~(A) Wildlife Habitat designated Category 3 or 4 by ODFW. In the absence of easily obtainable data, a determination regarding the location of Category 3 or 4 wildlife habitat may be deferred to a property-specific assessment but must be done in consultation with ODFW.~~

~~(B) Lands protected under Goal 3 that are not irrigated with an NRCS Agricultural Capability Classification of III or IV.~~

~~(C) Lands protected under Goal 3 that have been enrolled in the Conservation Reserve Program (CRP) as of January 1, 2024.~~

~~(D) Lands protected under Goal 3 meeting the definitions at ORS 195.300(10)(c) and (f) that have no past history of irrigation.~~

~~(E) Lands protected under Goal 3 meeting the definition at ORS 215.710 with no past history of irrigation and that have been continually managed for cereal grain production involving yearly fallowing as a primary agricultural management technique.~~

~~(F) Lands protected under Goal 4 with a capability of producing from 20-85 cubic feet wood fiber/acre/year that do not include areas that have been burned over in the previous ten years by wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610.~~

~~(G) Historic, Cultural or Archeological Resources. In the absence of easily obtainable data, a determination regarding the location of historic, cultural or archeological resources may be deferred to a property specific assessment but must be done in consultation with the Oregon State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may be affected by the application.~~

~~(c) Lands considered significant under subsection (7)(b) are subject to the relevant mitigation requirements identified at subsection (14).~~

(8) Conflicting uses. A local government may choose not to identify conflicting uses as would otherwise be required by the standard process. In the alternative, a local government may choose to conduct a more detailed analysis that may lead to the identification of conflicting uses.

(9) 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.

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

(11) Mitigation. Unless otherwise stated, plans and programs carrying out the mitigation requirements of this subsection shall assure that the approved measures are of suitable durability and proximity, result in no net loss of the resource.

(a) Wildlife.

(b) Agricultural Lands.

(c) Forest Lands.

~~(d) Military Training Areas. An application for a photovoltaic solar power energy generation facility proposed within a Military Training Area shall include a Glint and Glare analysis for the applicable utilized military airspace. If measures are necessary to avoid possible conflicts with low flying aircraft identified in the Glint and Glare analysis, such measures will be developed in coordination with the United States Department of Defense (DoD) and described in the application materials.~~

Commented [JJ10]: Moved to Subsection (12) below.

(e) Historic, Cultural or Archeological Resources. As part of a complete application, demonstrate that the construction and operation of the renewable energy facility, taking into account

mitigation, will not result in significant adverse impacts to historic, cultural and archaeological resources that are:

(A) Listed on the National Register of Historic Places under the National Historic Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

(B) Inventoried in a local comprehensive plan; or

(C) Evaluated as a significant or important archaeological object or archaeological site, as those terms are defined in ORS 358.905.

~~(g) Community Needs and Benefits. All applications for a photovoltaic solar power energy generation facility shall address community needs and benefits by identifying how the project will make contributions, financial and otherwise, that serve to help improve a community's social health, well-being, and functioning. The contributions will be in addition to property tax revenues and shall be both meaningful and reasonable. A determination under this subsection may be based on substantial evidence in the record, or, in the alternative a county may rely on the following items, which will be considered to comply with the requirements of this rule:~~

~~(A)~~

~~(B)~~

~~(C)~~

(12) 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 by determining that the following items have been satisfied:

~~(a) Final approval for an application brought under this section may not be granted until the applicant has provided evidence of a power purchase agreement or other binding financial agreement with an electrical utility that provides service to Oregon residents. However, a county may grant a tentative approval until such evidence is produced.~~

~~(a) An application for a photovoltaic solar power energy generation facility shall identify whether the proposed site is within a Military Special Use Airspace or a Military Training Route. If so, the application shall include a Glint and Glare analysis for the applicable utilized military airspace. Any measures necessary to avoid possible conflicts with low flying aircraft identified in the Glint and Glare analysis will be developed in coordination with the United States Department of Defense (DoD), described in the application materials, and attached as conditions of approval to the local decision.~~

~~(g) Community Needs and Benefits. All applications for a photovoltaic solar power energy generation facility shall address community needs and benefits by identifying how the project will make contributions, financial and otherwise, that serve to help improve a community's social health, well-being, and functioning. The contributions will be in addition to property tax~~

Commented [JJ11]: Moved to Subsection (12) below.

Commented [JJ12]: Language not fully vetted by Military.

Commented [JJ13]: Language not fully vetted by TAC.

1 revenues and shall be both meaningful and reasonable. A determination under this subsection  
2 may be based on substantial evidence in the record, or, in the alternative a county may rely on  
3 the following items, which will be considered to comply with the requirements of this rule:

4 (A) The applicant has conducted detailed public outreach activities in advance of submitting a  
5 complete application; and

6 (B) The applicant contributes to a local fund or funding mechanism in the amount of \$ ? or an  
7 alternative amount that is reasonably estimated to represent ? % of the project budget,  
8 whichever is less; or

9 (C) The applicant contributes to a local fund or funding mechanism in the amount of \$ ? or an  
10 alternative amount that is reasonably estimated to represent ? % of the savings in time value  
11 and direct costs of not going through the state process, whichever is less; or

12 (D) The county has established a Strategic Investment Program (SIP) or Payment in Lieu of Taxes  
13 (PILOT) strategy that dedicates (?)% of county revenues generated in lieu of property taxes to  
14 be provided to households within one-mile of the development; or

15 (E) The applicant commits to ensuring that emergency service providers are guaranteed a  
16 source of electricity during a power outage event through providing battery storage or some  
17 other method.

18 (b) All mitigation, required by subsection (11), including mitigation for Historic, Cultural or  
19 Archeological Resources, ~~as well as Community Needs and Benefits~~, is identified and attached  
20 as a condition of approval.

21 (c) The applicable provisions of OAR 660-033-0130(38) and OAR 660-006-0025(k) have been  
22 satisfied.

23 (d) Any applicable local provisions have been satisfied.

24 **(13) Voluntary Implementation.** Local governments may implement this rule upon adopting an  
25 ordinance through the post-acknowledgment plan amendment process. The ordinance shall  
26 specify if the local government has elected to exercise any or all of the discretions offered with  
27 regard to excluded areas pursuant to subsection (7)(a)(M), conflicting uses, ESEE analysis or  
28 other items. The post-acknowledgement plan amendment process may be initiated by the  
29 county or by any other applicant.

**Commented [JJ14]:** Language regarding how a county may "opt-in" is under discussion. Additional information may be available at the RAC meeting.

30  
31 (a) Prior to conducting a hearing to consider an ordinance implementing the provisions of this  
32 rule a local government will hold one or more public meetings to solicit input from county  
33 residents. The public meetings should occur in areas of the county that include lands likely to be  
34 determined significant photovoltaic solar resources. The county will provide mailed notice of  
35 the meetings to property owners and residents in the general area of the meeting location. The

meetings shall include the county planning commission and at least one member of the county elected officials.

(b) Prior to making a decision regarding an ordinance, a local government will hold two more public hearings before the county planning commission and one or more public hearings before the county elected officials. A county may not consider establishing photovoltaic solar resource areas at locations that have not been the subject of a public meeting pursuant to the provisions of subsection ~~16~~ (13)(a).

(c) In addition to submitting the proposed change to the Director of the Department of Land Conservation and Development required by ORS 197.610(1), notice of the Post-Acknowledgement Plan Amendment will also be provided to:

(A) The State Department of Fish and Wildlife;

(B) The State Department of Energy;

(C) The State Historic Preservation Officer;

(D) The Oregon Department of Aviation;

(E) The United States Department of Defense; and

(F) Federally recognized Indian tribes that may be affected by the application.

**Commented [JJ15]:** Reflects project level notice requirements required at ORS 215.446.

(14) When a local government chooses to voluntarily implement the provisions of this rule it may 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-acknowledgment plan amendment.

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

(b) Applications for photovoltaic solar sites are to be processed as individual land use applications and reviewed against the provisions of subsections (5) and (7), as well as all other applicable provisions of law without the need for an individual Post Acknowledgement Plan Amendment. <sup>1</sup>

(15) Scheduled Review. On or before June 30, 2030 the department will provide a report to the Land Conservation and Development Commission that:

(a) Is informed by coordination with parties consistent with those interests represented on the Rules Advisory Committee established pursuant to Section 37 of HB 3409 (2023).

1 (b) Identifies those counties who have chosen to voluntarily implement the provisions of this  
2 rule.

3 (c) Describes how well the intent of this rule as stated in Subsection (1) is being accomplished.

4 (d) Includes recommended updates, if any, the department identifies as being necessary to  
5 better accomplish the intent of this rule as stated in Subsection (1).

6 (e) Makes recommendations to the commission as to whether the need for renewable solar  
7 energy production to achieve Oregon's renewable energy goals compared to the number of  
8 counties voluntarily implementing the provisions of this rule results in a need to make  
9 implementation of these rules directly applicable to local governments in Eastern Oregon.

10

11

**660-023-0195**

**Photovoltaic Solar Energy Resources**

(1) Introduction and Intent. 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) through (15). Furthermore, this rule is designed to assist local governments in eastern Oregon to identify opportunities and reduce conflicts for the development of photovoltaic solar power energy generation facilities and provide appropriate, responsible levels of regulatory relief for projects that are proposed to be sited in areas determined to be significant. The provisions included herein are intended to help achieve the successful development of photovoltaic solar energy generation in eastern Oregon that:

(a) Makes meaningful contributions to meeting the state's clean energy goals;

(b) Increases potential for local governments and local residents to distinctly share in the benefits of said development; and

(c) Suitably account for conflicts with the variety of values and resources identified for consideration pursuant to Section 35.(2) of HB 3409 (2023) and this rule.

(2) Definitions. For purposes of this rule the definitions in ORS 197.015, OAR 660-006-0005, OAR 660-023-0010, OAR 660-033-0020 and OAR 660-033-0130(38) apply. In addition, the following definitions apply:

(c) "Eastern Oregon" means that portion of the State of Oregon lying east of a line beginning at the intersection of the northern boundary of the state and the western boundary of Wasco County, thence southerly along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the state.

(f) "Military Special Use Airspace" is airspace of defined dimensions identified by an area on the surface of the earth wherein activities must be confined because of their nature, and/or wherein limitations may be imposed upon aircraft operations that are not a part of those activities (FAA Order 7610.4K CHG 1, Section 1.3). Limitations may be imposed upon aircraft operations that are not a part of the airspace activities. Special use airspace includes any associated underlying surface and subsurface training areas.

(h) "Military Training Route (MTR)" means airspace of defined vertical and lateral dimensions established for the conduct of military flight training at indicated airspeeds in excess of 250 knots.

(i) "Oregon Renewable Energy Siting Assessment (ORESAS)" is a project funded by a U.S. Department of Defense Office of Local Defense community Cooperation grant awarded to the Oregon Department of Energy, working with the Department of Land Conservation & Development and Oregon State University's Institute for Natural Resources. ORESAS collected



1 data and information through assessments to develop a report and mapping tool that provide  
2 an understanding of the opportunities and constraints that come with renewable energy and  
3 transmission development in Oregon. The ORESA mapping tool is housed on Oregon Explorer.

4 (j) "Photovoltaic solar resource areas" are lands typically comprised of multiple ownerships that  
5 are particularly well suited for the siting of photovoltaic solar power generation facilities  
6 because they have been determined to be significant pursuant to subsection (7) of this rule.  
7 Photovoltaic solar resource areas are implemented through the adoption of a local program  
8 that includes an overlay zone and other ordinance provisions found to be consistent with the  
9 provisions of this rule that set forth applicable review procedures and criteria. Multiple  
10 photovoltaic solar energy generation facilities may be located within a photovoltaic solar  
11 resource area.

12 (k) "Photovoltaic solar resource site" is a property specific location that is particularly well  
13 suited for the siting of a photovoltaic solar power generation facility because it has been  
14 determined to be significant pursuant to subsection (7) of this rule. Photovoltaic solar resource  
15 sites include a single approval for photovoltaic solar energy development residing outside of a  
16 photovoltaic solar resource area. A county choosing to voluntarily implement the provisions of  
17 this rule may approve photovoltaic solar resource sites through direct application of  
18 subsections (6), (7) and (11) without the need for adopting a local program or a subsequent  
19 post-acknowledgement plan amendment.

20 (i) "Significant photovoltaic resource" means lands that have the necessary characteristics to  
21 support successful photovoltaic solar energy generation while also avoiding, minimizing or  
22 providing compensatory mitigation for conflicts with the variety of other important resources  
23 as identified at subsection (7). A significant photovoltaic solar resource may be identified as a  
24 photovoltaic solar resource area or considered as a photovoltaic solar resource site.

25 (k) "Transmission Line" has the meaning stated at ORS 758.012(b), which is a linear utility  
26 facility by which a utility provider transmits or transfers electricity from a point of origin or  
27 generation or between transfer stations.

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

31 (4) Rather than using the standard process described at subsection (3) above, counties in  
32 eastern Oregon may instead choose the following process identified in subsections (5) thru (12)  
33 to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or  
34 sites.

(5) A local government may use data from reliable online mapping tools, such as that included in the Oregon Renewable Energy Siting Assessment (ORESAs), to inform determinations made under subsections (6) and (7).

(6) Quality, Quantity, and Location. In order to be considered significant pursuant to subsection (7), lands under consideration as a potential photovoltaic solar resource area or a photovoltaic resource site must first be determined by the presiding local government to have adequate site characteristics, resource potential, and proximity to current and future transmission access and locations for potential interconnects necessary to support successful photovoltaic solar development. A determination under this subsection may be based on substantial evidence in the record, or, in the alternative a county may rely on the presence of all the following characteristics, which will be considered to comply with the requirements of this rule:

(a) Topography with a slope that is generally 15% or less.

(b) An estimated Annual Solar Utility-Scale Capacity Factor of at 19-21 percent or greater.

(c) Are located:

(A) Within 2 miles of a Transmission Line with a rating of up to 69 KV; or

(B) Within 5 miles of a Transmission Line with a rating between 70 KV and 115 KV; or

(C) Within 10 miles of a Transmission Line with a rating over 115 KV; or

(7) Determination of Significance. For purposes of this rule, lands under consideration as a potential photovoltaic solar resource area or a photovoltaic resource site determined to satisfy subsection (6) shall be considered significant photovoltaic solar resources when they are found to be consistent with:

(a) The following areas are eligible for a determination of significance without the need for mitigation.

(A) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class VII and VIII.

(B) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class VI and do not have the ability to produce ? pounds of forage per acre per year.

(C) Lands protected under Goal 4 that are capable of producing 0 to 20 cubic feet per acre per year of wood fiber.

(D) Any lands protected under Goal 4 that have been significantly affected by wildfire.

(E) Wildlife Habitat characterized by features such as noxious weed infestation or other areas with little or no restoration potential.

(b) The following areas are eligible for a determination of significance when subject to the relevant mitigation requirements identified at Subsection (11) of this rule.

(A) Mule Deer Winter Range, Rocky Mountain Elk Winter Range, Big Horn Sheep Habitat, and Pronghorn Essential and Limited Habitat as identified by the ORESA on-line mapping and reporting tool. The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(B) Wildlife Habitat characterized by older forested areas, big game summer range, and degraded rangelands. In the absence of easily obtainable data, a determination regarding wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW.

(C) Lands protected under Goal 3 that are comprised of soils with an agricultural capability class VI that have the ability to produce greater than ? pounds of forage per acre per year.

(D) Lands protected under Goal 3 that are not irrigated and comprised of soils with an agricultural capability class III, IV, or V.

(E) Lands protected under Goal 3 comprised of soils with an agricultural capability class II that have no past history of irrigation that have not been managed for the production of crops or livestock at any time during the previous five years.

(F) Lands protected under Goal 3 that are included in an irrigation district or a federally recognized viticultural area that have no past history of irrigation.

(F) Lands protected under Goal 4 with a capability of producing from 20-85 cubic feet wood fiber/acre/year that do not include areas significantly affected by wildfire.

(G) Historic, Cultural or Archeological Resources. In the absence of easily obtainable data, a determination regarding the location of historic, cultural or archeological resources may be deferred to a property specific assessment but must be done in consultation with the Oregon State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may be affected by the application.

(c) The following areas are not eligible for a determination of significance.

(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6). The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(B) Priority Wildlife Connectivity Areas as designated by the Oregon Department of Fish and Wildlife (ODFW). The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(C) High Use and Very High Use Wildlife Migration Corridors designated by ODFW. The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(D) Wildlife Habitat that cannot be mitigated. The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(E) High-Value Farmland Soils as described at OAR 660-033-0020(8)(a) except as provided under subsection (7)(b)(E).

(F) High-Value Farmland as defined at ORS 195.300(10) except as provided under subsection (7)(b)(F).

(G) Lands protected under Goal 3 that were receiving water for purposes of irrigation on January 1, 2024.

(H) Lands protected under Goal 4 with a capability of producing greater than 85 cubic feet wood fiber/acre/year that do not include areas that have been severely affected by wildfire.

(K) Lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21.

(M) Lands within one mile of the urban growth boundary of a city with a population of 10,000 or greater.

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

(8) Conflicting uses. A local government may choose not to identify conflicting uses as would otherwise be required by the standard process. In the alternative, a local government may choose to conduct a more detailed analysis that may lead to the identification of conflicting uses.

(9) 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.

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

(11) Mitigation. Unless otherwise stated, plans and programs carrying out the mitigation requirements of this subsection shall assure that the approved measures are of suitable durability and proximity, result in no net loss of the resource.

1 (a) Wildlife.

2 (b) Agricultural Lands.

3 (c) Forest Lands.

4 (e) Historic, Cultural or Archeological Resources. As part of a complete application, demonstrate  
5 that the construction and operation of the renewable energy facility, taking into account  
6 mitigation, will not result in significant adverse impacts to historic, cultural and archaeological  
7 resources that are:

8 (A) Listed on the National Register of Historic Places under the National Historic Preservation  
9 Act (P.L. 89-665, 54 U.S.C. 300101 et seq.);

10 (B) Inventoried in a local comprehensive plan; or

11 (C) Evaluated as a significant or important archaeological object or archaeological site, as those  
12 terms are defined in ORS 358.905.

13 (12) Program to achieve the goal. A local government may approve a photovoltaic solar power  
14 generation facility proposed within a photovoltaic solar resource area, or photovoltaic solar  
15 resource site by determining that the following items have been satisfied:

16 (a) An application for a photovoltaic solar power energy generation facility shall identify  
17 whether the proposed site is within a Military Special Use Airspace or a Military Training Route.  
18 If so, the application shall include a Glint and Glare analysis for the applicable utilized military  
19 airspace. Any measures necessary to avoid possible conflicts with low flying aircraft identified  
20 in the Glint and Glare analysis will be developed in coordination with the United States  
21 Department of Defense (DoD), described in the application materials, and attached as  
22 conditions of approval to the local decision.

23 (g) Community Needs and Benefits. All applications for a photovoltaic solar power energy  
24 generation facility shall address community needs and benefits by identifying how the project  
25 will make contributions, financial and otherwise, that serve to help improve a community's  
26 social health, well-being, and functioning. The contributions will be in addition to property tax  
27 revenues and shall be both meaningful and reasonable. A determination under this subsection  
28 may be based on substantial evidence in the record, or, in the alternative a county may rely on  
29 the following items, which will be considered to comply with the requirements of this rule:

30 (A) The applicant has conducted detailed public outreach activities in advance of submitting a  
31 complete application; and

32 (B) The applicant contributes to a local fund or funding mechanism in the amount of \$ \_?\_ or an  
33 alternative amount that is reasonably estimated to represent \_?\_% of the project budget,  
34 whichever is less; or

(C) The applicant contributes to a local fund or funding mechanism in the amount of \$\_\_ or an alternative amount that is reasonably estimated to represent \_\_% of the savings in time value and direct costs of not going through the state process, whichever is less; or

(D) The county has established a Strategic Investment Program (SIP) or Payment in Lieu of Taxes (PILOT) strategy that dedicates (?)% of county revenues generated in lieu of property taxes to be provided to households within one-mile of the development; or

(E) The applicant commits to ensuring that emergency service providers are guaranteed a source of electricity during a power outage event through providing battery storage or some other method.

(b) All mitigation required by subsection (11), including mitigation for Historic, Cultural or Archeological Resources, is identified and attached as a condition of approval.

(c) The applicable provisions of OAR 660-033-0130(38) and OAR 660-006-0025(k) have been satisfied.

(d) Any applicable local provisions have been satisfied.

(13) Voluntary Implementation. 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 (7)(a)(M), conflicting uses, ESEE analysis or other items. The post-acknowledgement plan amendment process may be initiated by the county or by any other applicant.

(a) Prior to conducting a hearing to consider an ordinance implementing the provisions of this rule a local government will hold one or more public meetings to solicit input from county residents. The public meetings should occur in areas of the county that include lands likely to be determined significant photovoltaic solar resources. The county will provide mailed notice of the meetings to property owners and residents in the general area of the meeting location. The meetings shall include the county planning commission and at least one member of the county elected officials.

(b) Prior to making a decision regarding an ordinance, a local government will hold two more public hearings before the county planning commission and one or more public hearings before the county elected officials. A county may not consider establishing photovoltaic solar resource areas at locations that have not been the subject of a public meeting pursuant to the provisions of subsection (13)(a).

(c) In addition to submitting the proposed change to the Director of the Department of Land Conservation and Development required by ORS 197.610(1), notice of the Post-Acknowledgement Plan Amendment will also be provided to:

1 (A) The State Department of Fish and Wildlife;

2 (B) The State Department of Energy;

3 (C) The State Historic Preservation Officer;

4 (D) The Oregon Department of Aviation;

5 (E) The United States Department of Defense; and

6 (F) Federally recognized Indian tribes that may be affected by the application.

7 (14) When a local government chooses to voluntarily implement the provisions of this rule it  
8 may identify photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c).

9 Photovoltaic solar resource areas may be identified as part of the original post-  
10 acknowledgment plan amendment or through a subsequent post-acknowledgement plan  
11 amendment.

12 (a) Until a local government has identified photovoltaic solar resource areas, it will accept  
13 individual applications for photovoltaic solar resource sites; and

14 (b) Applications for photovoltaic solar sites are to be processed as individual land use  
15 applications and reviewed against the provisions of subsections (5) and (7), as well as all other  
16 applicable provisions of law without the need for an individual Post Acknowledgement Plan  
17 Amendment. ,

18 (15) Scheduled Review. On or before June 30, 2030 the department will provide a report to the  
19 Land Conservation and Development Commission that:

20 (a) Is informed by coordination with parties consistent with those interests represented on the  
21 Rules Advisory Committee established pursuant to Section 37 of HB 3409 (2023).

22 (b) Identifies those counties who have chosen to voluntarily implement the provisions of this  
23 rule.

24 (c) Describes how well the intent of this rule as stated in Subsection (1) is being accomplished.

25 (d) Includes recommended updates, if any, the department identifies as being necessary to  
26 better accomplish the intent of this rule as stated in Subsection (1).

27 (e) Makes recommendations to the commission as to whether the need for renewable solar  
28 energy production to achieve Oregon's renewable energy goals compared to the number of  
29 counties voluntarily implementing the provisions of this rule results in a need to make  
30 implementation of these rules directly applicable to local governments in Eastern Oregon.

31

**OAR 660-033-0130**

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

(c) "Agrivoltaics Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use. Agrivoltaics development may occur as part of any approved photovoltaic solar power generation facility without the need for additional land use review or approvals. Agrivoltaics development approved pursuant to a locally adopted agrivoltaics development program in a county in eastern Oregon may include a project size that is larger than would otherwise be allowed.

(d) "Agrivoltaics development plan" is a plan established pursuant to an agrivoltaics development program adopted by a county in eastern Oregon demonstrating that income from farm activities on the subject site will be equal or greater to existing farm income on lands physically developed with photovoltaic solar generation facilities, or that any reduction in farm income on lands physically developed with photovoltaic solar generation facilities is off-set by an increase of equal or greater amount in farm income from farm activities on land within the farm that are not physically developed with photovoltaic solar generation facilities. An agrivoltaics development plan requires submittal of a report at least once every two years to the county by the managers of the farm documenting the amount of solar energy generated and the farm income derived from farm activities within the reporting period, with an explanation of any discrepancies between the adopted farm management plan and actual results. The provisions of this subsection are repealed on January 1, 2035.

(e) "Agrivoltaics development program" means specific land use provisions adopted by a county in eastern Oregon that authorize agrivoltaics development to have a larger project size than would otherwise be allowed. The adopted land use provisions must require sufficient assurances that the farm use element of the agrivoltaics development is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. An agrivoltaics development program:

(A) For high-value farmland, does not allow an agrivoltaics development plan for any project with a nameplate capacity greater than four megawatts or 40 acres and the countywide total of lands included in approved agrivoltaics development plans does not cumulatively exceed 160 acres of high-value farmland.



(B) For arable land, does not allow an agrivoltaics development plan for any project with a nameplate capacity greater than nine megawatts or 80 acres and the countywide total of lands included in approved agrivoltaics development plans does not cumulatively exceed 400 acres of arable land.

(C) For nonarable land, does not allow an agrivoltaics development plan for any project with a nameplate capacity greater than 80 megawatts or 720 acres and the countywide total of lands included in approved agrivoltaics development plans does not cumulatively exceed 3,840 acres of nonarable land.

~~(f) "Microgrid" means a self-sufficient energy system that serves a discrete geographic footprint, such as a college campus, hospital complex, business center or neighborhood.~~

~~(g)~~ (d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(he) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils, including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

(if) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. Such facilities must be removed or converted to an allowed use under OAR 660-033-0130(19) or other statute or rule when project construction is complete. Temporary workforce housing facilities not included in the initial approval may be considered through a minor amendment request filed after a decision to approve a power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall have no effect on the original approval. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power

generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or, a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84, ~~a community solar project established consistent with ORS 757.386 and OAR chapter 860, division 88 with a name plate capacity of up to 500 kilowatts or a facility with a name plate capacity of up to 500 kilowatts that provides direct service to a microgrid.~~

(jg) For high-value farmland described at ORS 195.300(10) ~~and not subject to OAR 660-033-0130(38)(q) or (r)~~, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph ~~(ih)~~(H) are satisfied; or

~~(B) The county approves an agrivoltaics development plan consistent with the definition at OAR 660-033-0130(38)(d)~~

~~(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to an dual use development plan. Land use provisions adopted by a county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection shall be repealed on January 1, 2022.~~

~~(kh)~~ The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

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

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

(C) Construction or maintenance activities will not result in **unnecessary soil compaction** that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing

1 how unnecessary soil compaction will be avoided or remedied in a timely manner through deep  
2 soil decompaction or other appropriate practices. The approved plan shall be attached to the  
3 decision as a condition of approval;

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

9 (E) The presence of a photovoltaic solar power generation facility will not result in unnecessary  
10 risks to **soil health** on subject property that could compromise its ability to function as a vital  
11 living ecosystem. This provision may be satisfied by the submittal and county approval of a  
12 vegetation management plan prepared by an adequately qualified individual, showing how a  
13 healthy vegetative cover will be established and maintained and how a bare earth situation and  
14 continuous chemical application will not occur. The approved plan shall be attached to the  
15 decision as a condition of approval;

16 (F) The photovoltaic solar power generation facility will be designed, constructed and managed  
17 in a way that will promote the **prevention and mitigate the risk of wildfire**. This provision may  
18 be satisfied by the submittal and county approval of a wildfire plan prepared by an adequately  
19 qualified individual that is consistent with the procedural requirements of OAR 345-022-0115.  
20 The approved plan shall be attached to the decision as a condition of approval;

21 (G) That considerations for the amount, type, and location of **temporary workforce housing**  
22 have been made. This provision may be satisfied by the submittal and county approval of a  
23 workforce housing plan prepared by an adequately qualified individual, that demonstrates how  
24 temporary workforce housing resulting in a benefit to the local community will be  
25 accommodated or that such temporary housing is reasonably likely to occur. The plan need not  
26 obligate the applicant to financially secure the temporary housing. The approved plan shall be  
27 attached to the decision as a condition of approval.

28 (~~GE~~) Except for electrical cable collection systems connecting the photovoltaic solar generation  
29 facility to a transmission line, the project is not located on those high-value farmland soils listed  
30 in OAR 660-033-0020(8)(a);

31 (~~HF~~) The project is not located on those high-value farmland soils listed in OAR 660-033-  
32 0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

33 (i) Non high-value farmland soils are not available on the subject tract;

34 (ii) Siting the project on non high-value farmland soils present on the subject tract would  
35 significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and

~~(IG)~~ A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

~~(JH)~~ A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(i) Is not located within the boundaries of an irrigation district;

(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

(v) Does not qualify as high-value farmland under any other provision of law; or

(ii) For arable lands [not subject to OAR 660-033-0130\(38\)\(q\) or \(r\)](#), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres [unless the county approves an agrivoltaics development plan consistent with the definition at OAR 660-033-0130\(38\)\(d\) that authorizes a larger project size](#). The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

(i) Nonarable soils are not available on the subject tract;

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

(E) The requirements of OAR 660-033-0130(38)(~~h~~)(A), (B), (C), ~~and~~ (D), (E), (F) and (G) are satisfied.

(~~m~~) For nonarable lands not subject to OAR 660-033-0130(38)(q) or (r), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres unless the county approves an agrivoltaics development plan consistent with the definition at OAR 660-033-0130(38)(d) that authorizes a larger project size. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:

- (A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);
- (B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:
- (i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or
  - (ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;
- (C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);
- (D) No more than 20 acres of the project will be sited on arable soils;
- (E) The requirements of OAR 660-033-0130(38)(h)(D), (E), (F) and (G) are satisfied;
- (F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and
- (G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will



cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

~~(n)~~ An exception to the acreage and soil thresholds in subsections ~~(jg)~~, ~~(kh)~~, ~~(li)~~, and ~~(mj)~~ of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

~~(om)~~ Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility .

~~(p)~~ If ORS 469.300(11)(a)(D) is amended, the commission may re-evaluate the acreage thresholds identified in subsections ~~(g)~~, ~~(i)~~ and ~~(j)~~, ~~(k)~~, ~~(l)~~ and ~~(m)~~ of this section.

(q) For lands determined to be significant photovoltaic solar resources pursuant to OAR 660-023-0195(7) and a county has identified photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c) the following provisions apply:

(A) For high-value farmland a photovoltaic solar power generation facility shall not use, occupy, or cover more than 240 acres.

(B) For arable lands a photovoltaic solar power generation facility shall not use, occupy, or cover more than 2,560 acres.

(C) For nonarable lands a photovoltaic solar power generation facility shall not use, occupy, or cover more than 3,840 acres.

(D) A county may determine that ORS 215.296 and OAR 660-033-0130(5) are met when the applicable provisions of OAR 660-033-0130(38)(k)(A) thru (F) are found to be satisfied and any mitigation measures necessary to comply with the provisions of OAR 660-023-0195(14)(b) are required.

(r) For lands determined to be significant photovoltaic solar resources pursuant to OAR 660-023-0195(7) and a county has not identified photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c) and is instead limited to considering applications for individual photovoltaic solar resource sites the following acreage thresholds apply:

(A) For high-value farmland a photovoltaic solar power generation facility shall not use, occupy, or cover more than 160 acres.

1 (B) For arable lands a photovoltaic solar power generation facility shall not use, occupy, or cover  
2 more than 1,280 acres.

3 (C) For nonarable lands a photovoltaic solar power generation facility shall not use, occupy, or  
4 cover more than 1,920 acres.

5 (s) A permit approved for a photovoltaic solar power generation facility shall be valid for four  
6 years.

7 (t) A county may grant a permit described at subsection (s) a total of two extensions for period  
8 of up to 24 months each if:

9 (a) An applicant makes a written request for an extension of the development approval period;

10 (b) The request is submitted to the county prior to the expiration of the approval period;

11 (c) The applicant states reasons that prevented the applicant from beginning or continuing  
12 development within the approval period; and

13 (d) The county determines that the applicant was unable to begin or continue development  
14 during the approval period for reasons for which the applicant was not responsible.

15  
16 660-033-0145

17 Agriculture/Forest Zones

18 (1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-006-  
19 0050;

20 (2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR 660-  
21 006-0055; and

22 (3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR 660-006-  
23 0057.

24 (4) Photovoltaic Solar Power Generation facilities shall be based on the predominate use of the  
25 property as of January 1, 2024.

26



1 **660-006-0025**

2 **Uses Authorized in Forest Zones**

3 (4) The following uses may be allowed on forest lands subject to the review standards in section  
4 (5) of this rule:

5 \*\*\*\*\*

6 (j) Commercial utility facilities for the purpose of generating power, **not including photovoltaic**  
7 **solar power generation facilities in eastern Oregon.** A power generation facility considered  
8 **under this subsection** shall not preclude more than 10 acres from use as a commercial forest  
9 operation unless an exception is taken pursuant to OAR chapter 660, division 4;

10 **(k) Commercial utility facilities for the purpose of generating power as a photovoltaic solar**  
11 **power generation facility in eastern Oregon.**

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

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

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

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

23 (6) Nothing in this rule relieves governing bodies from complying with other requirement  
24 contained in the comprehensive plan or implementing ordinances such as the requirements  
25 addressing other resource values (e.g., Goal 5) that exist on forest lands.

26 \*\*\*\*\*

27 \*\*\*\*\*

28 **660-006-0033**

29 **Photovoltaic Solar Energy Generation Facilities in Eastern Oregon**

30 **The following standards apply to photovoltaic solar energy generation facilities described at**  
31 **OAR 660-006-0025(4)(k):**

(1) "Photovoltaic solar power generation facility" includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. Such facilities must be removed or converted to an allowed use under 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 660-006-0025(5) and shall have no effect on the original approval. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84

(2) A photovoltaic solar power generation facility in eastern Oregon that is not subject to the provisions of subsections (3) or (4) shall not use, occupy, or cover more than 240 acres.

(3) For lands determined to be significant photovoltaic solar resources pursuant to OAR 660-023-0195(7) and a county has identified photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c) a photovoltaic solar power generation facility shall not use, occupy, or cover more than 3,840 acres.

(4) For lands determined to be significant photovoltaic solar resources pursuant to OAR 660-023-0195(7) and a county has not identified photovoltaic solar resource areas as defined at OAR 660-023-0195(2)(c) and is instead limited to considering applications for individual photovoltaic solar resource sites a photovoltaic solar power generation facility shall not use, occupy, or cover more than 1,920 acres.

(5) In addition to the requirements of OAR 660-006-0025(5), OAR 660-006-0029 “Siting Standards for Dwellings and Structures in Forest Zones, OAR 660-006-0030 “Fire Site Standards for Dwellings and Structures”, and other applicable provisions of law, the following criteria must also be satisfied in order to approve a photovoltaic solar power generation facility in eastern Oregon.

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

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

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

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

(E) The presence of a photovoltaic solar power generation facility will not result in unnecessary risks to soil health on subject property that could compromise its ability to function as a vital living ecosystem. This provision may be satisfied by the submittal and county approval of a vegetation management plan prepared by an adequately qualified individual, showing how a healthy vegetative cover will be established and maintained and

1 how a bare earth situation and continuous chemical application will not occur. The  
2 approved plan shall be attached to the decision as a condition of approval;

3 (F) That considerations for the amount, type, and location of temporary workforce housing  
4 have been made. This provision may be satisfied by the submittal and county approval of a  
5 workforce housing plan prepared by an adequately qualified individual, that demonstrates  
6 how temporary workforce housing resulting in a benefit to the local community will be  
7 accommodated or that such temporary housing is reasonably likely to occur. The plan  
8 need not obligate the applicant to financially secure the temporary housing. The approved  
9 plan shall be attached to the decision as a condition of approval.

10 (5) A permit approved for a photovoltaic solar power generation facility shall be valid for  
11 four years.

12 (6) A county may grant a permit described at subsection (5n) a total of two extensions for  
13 period of up to 24 months each if:

14 (a) An applicant makes a written request for an extension of the development approval  
15 period;

16 (b) The request is submitted to the county prior to the expiration of the approval period;

17 (c) The applicant states reasons that prevented the applicant from beginning or continuing  
18 development within the approval period; and

19 (d) The county determines that the applicant was unable to begin or continue development  
20 during the approval period for reasons for which the applicant was not responsible.

**660-004-0022****Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)**

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040. Reasons that may justify the establishment of temporary natural disaster related housing on undeveloped rural lands are provided in OAR 660-014-0090.

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(3) Rural Industrial Development: A local government may consider a photovoltaic solar power generation facility as defined in OAR 660-033-0130(38)(f) to be a rural industrial use. For the siting of rural industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.

(4) A site justified for a photovoltaic solar power generation facility under OAR 660-004-0022(3) and is also found to satisfy the provisions of OAR 660-004-0020 shall remain zoned for exclusive farm use, forest use or mixed farm and forest; whichever is applicable. A county shall also continue to apply the relevant approval criteria included at OAR 660-033-0130(38) or OAR 660-006-0025(4)(k).