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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>(1) Introduction and Intent. 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. This division provides regulatory relief for projects proposed to be sited in significant photovoltaic solar resource areas and sites, subject to the standards and requirements of this rule. Photovoltaic solar resource areas and sites are presumed to comply with Goal 3 when in compliance with this division. This division is intended to help achieve the successful development of photovoltaic solar energy generation in eastern Oregon that:</p> <p>(a) Makes meaningful contributions to the state’s clean energy goals;</p> <p>(b) Increases potential for local governments and local residents to share the benefits of solar development; and</p> <p>(c) Suitably account for potential conflicts with the values and resources identified under Section 35(2) of HB 3409 (2023) and this rule.</p>	<p><i>Same as previous drafts.</i></p>	<p><i>Department is not aware of any additional issues.</i></p>
<p>26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(2) Definitions:</p> <p>(a) “Annual solar utility scale capacity factor” means the amount of energy produced in a typical year, as a fraction of maximum possible energy for 100% of the hours of the year.</p> <p>(b) “Archaeological Resources” is a term that is synonymous with and has the same meaning as "archaeological site" as defined in OAR 660-023-0210(1)(a), which means a geographic locality in Oregon, including but not limited to submerged and submersible lands but not the bed of the sea within the state's jurisdiction, that contains archaeological objects as defined in ORS 358.905(1)(a) and the contextual associations of the objects with:</p> <p>(A) Each other; or</p> <p>(B) Biotic or geological remains or deposits. Examples of archaeological sites include but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites.</p> <p>(c) “Cultural Resources” is a term that is synonymous with and has the same meaning as "cultural areas" defined in OAR 660-023-0210(1)(b), which means archaeological sites, culturally significant landscape features , and sites</p>	<p><i>Provided definition of Annual solar utility scale capacity factor.</i></p>	<p><i>Could consider reducing language as follows: “Archaeological Resources” is a term that is synonymous with and has the same meaning as "archaeological site" as defined in OAR 660-023-0210(1)(a).</i></p> <p><i>Could consider reducing language as follows: “Cultural Resources” is a term that is synonymous with and has the same meaning as "cultural</i></p>

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<p>1 where both are present. Also referred to as 2 "cultural resource site." 3 4 (d) "Eastern Oregon" means that portion of the 5 State of Oregon lying east of a line beginning at 6 the intersection of the northern boundary of the 7 state and the western boundary of Wasco County, 8 thence southerly along the western boundaries of 9 the counties of Wasco, Jefferson, Deschutes and 10 Klamath to the southern boundary of the state. 11 12 (e) "Historic Resources" are those buildings, 13 structures, objects, sites, or districts that potentially 14 have a significant relationship to events or 15 conditions of the human past. 16 17 (f) "Microgrid" means a local electric grid with 18 discrete electrical boundaries, acting as a single 19 and controllable entity and able to operate in grid- 20 connected or island mode. 21 22 (g) "Military Special Use Airspace" is airspace of 23 defined dimensions identified by an area on the 24 surface of the earth wherein activities must be 25 confined because of their nature, or wherein 26 limitations may be imposed upon aircraft 27 operations that are not a part of those activities 28 Limitations may be imposed upon aircraft 29 operations that are not a part of the airspace 30 activities. Military special use airspace includes 31 any associated underlying surface and subsurface 32 training areas. 33 34 (h) "Military Training Route" means airspace of 35 defined vertical and lateral dimensions established 36 for the conduct of military flight training at indicated 37 airspeeds in excess of 250 knots. 38 39 (i) "Oregon Renewable Energy Siting Assessment 40 (ORESAs)" is a renewable energy mapping tool 41 housed on Oregon Explorer. 42 43 (j) "Photovoltaic solar power generation facility" 44 includes, but is not limited to, an assembly of 45 equipment that converts sunlight into electricity 46 and then stores, transfers, or both, that electricity. 47 This includes photovoltaic modules, mounting and 48 solar tracking equipment, foundations, inverters, 49 wiring, storage devices and other components. 50 Photovoltaic solar power generation facilities also 51 include electrical cable collection systems 52 connecting the photovoltaic solar generation 53 facility to a transmission line, all necessary grid 54 integration equipment, new or expanded private 55 roads constructed to serve the photovoltaic solar 56 power generation facility, office, operation and</p>	<p><i>This definition, from OAR 660-033-0130, replaces the "solar sites" language that used to be in this draft. Since the concept of individual site review is moved to 660-033, this division now speaks to individual applications submitted after a county adopts a program under this section to designate areas of a county for renewable solar development.</i></p>	<p><i>areas" defined in OAR 660-023-0210(1)(b),</i></p>
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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41</p>	<p>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. 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.</p> <p>(k) "Significant Photovoltaic solar resource area" is an area consisting of lands that are particularly well suited for the siting of photovoltaic solar power generation facilities because they have been determined to be significant pursuant to section 3 of this rule. Multiple photovoltaic solar power generation facilities may be located within a photovoltaic solar resource area.</p> <p>(l) "Transmission Line" 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.</p> <p>(m) "Tribe" as defined in ORS 182.162(2), means a federally recognized Indian tribe in Oregon, except where the definition in ORS 97.740 applies by statute.</p>	<p><i>This language also includes the workforce housing provisions as with the definition in OAR 660-033.</i></p>	
<p>42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(3) Significant Photovoltaic Solar Resource Areas:</p> <p>(a) Counties may establish significant photovoltaic solar resource areas through the adoption of a local program consistent with this section that includes a comprehensive plan amendment and implementing land use regulations found to be consistent with the provisions of this rule.</p> <p>(b) To implement this rule for the purpose of establishing significant photovoltaic solar resource areas a county shall follow the post-acknowledgment plan amendment process pursuant to OAR 660-018.</p>	<p><i>The designation of areas as part of a program is a comprehensive plan amendment requiring notice to the department as with any other plan amendment.</i></p>	<p><i>Department is not aware of any additional issues.</i></p>

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<p>1 2 3 4 5 6 7 8</p>	<p>significant photovoltaic solar resource area for photovoltaic solar power generation facilities or on lands nearby a photovoltaic solar resource site.</p> <p>(g) If a county chooses to conduct an additional analysis subsection (3)(f) of this rule, it must follow the provisions of OAR 660-023-0040.</p>		
<p>9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38</p>	<p>(h) (A) To qualify as a significant photovoltaic solar resource area, an area must be primarily constituted of lands which have the following characteristics:</p> <p>(i) Topography with a slope that is predominantly 15% or less;</p> <p>(ii) An estimated Annual Solar Utility-Scale Capacity Factor of 19 percent or greater; and</p> <p>(iii) Location predominantly within 10 miles of a transmission line with a rating of 69 KV or above.</p> <p>(B) A county may determine that additional areas within the county, despite not qualifying as potentially significant photovoltaic solar resource areas under subsection (3)(h)(A) of this rule, have potential for renewable solar energy development significant enough to be designated as significant photovoltaic solar resource areas;</p> <p>(C) A county may determine that areas within the county, despite qualifying as potentially significant photovoltaic solar resource areas under subsection (3)(h)(A) of this rule, have constraints or limitations that allow the county to not include such sites as significant photovoltaic solar resource areas.</p>	<p><i>Basic characteristics of significance previously agreed to.</i></p> <p><i>These two sections give a county flexibility, when designing a county-wide program, to add and subtract areas of solar significance based upon individual circumstances.</i></p>	<p><i>Is the RAC agreed on this definition of significance?</i></p> <p><i>Issue: should counties be given discretion to add to or subtract from the basic definition of significance in section (h)(A)? Counties would not be able to do this under the “sites” language in Division 33</i></p>
<p>39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(i) For any significant photovoltaic solar resource area, a site within that area with the following characteristics requires no mitigation:</p> <p>(A) Agricultural lands protected under Goal 3 that are:</p> <p>(i) comprised of soils as classified by the U.S. Natural Resources Conservation Service (NRCS) with an agricultural capability class VII and VIII; or</p> <p>(ii) comprised of soils as classified by the U.S. Natural Resources Conservation Service (NRCS) with an agricultural capability class VI and do not have the ability to produce 300 pounds of forage per acre per year;</p>	<p><i>No change to previous draft, these areas are allowed to develop without any additional agricultural, cultural/archaeological, or wildlife habitat mitigation.</i></p>	<p><i>Issue: are these categories of agricultural lands that don't require mitigation correct?</i></p> <p><i>Issue: are these categories of wildlife habitat that don't</i></p>

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<p>26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(j) For any significant photovoltaic solar resource area, a site within that area with the following characteristics requires mitigation:</p> <p>(A) Agricultural lands protected under Goal 3 that are:</p> <p>(i) comprised of soils with an agricultural capability class VI as classified by the U.S. Natural Resources Conservation Service (NRCS) and have the ability to produce greater than 300 pounds of forage per acre per year if the site consists of at least 640 acres;</p> <p>(ii) comprised of soils with an agricultural capability class III, IV, or V as classified by the U.S. Natural Resources Conservation Service (NRCS) , without an appurtenant water right on January 1, 2024;</p> <p>(iii) Mitigation for agricultural lands described in this subsection must be consistent with the requirements of section (4) of this rule.</p> <p>(B) Wildlife habitat characterized by ODFW as Category 2 that is not otherwise limited by section (3)(k) and wildlife habitat characterized by ODFW as Category 3 or 4 based on field data provided by the applicant and developed in consultation with ODFW. The exact location or categorization of Category 2, 3, or 4 wildlife habitat may be refined during consideration of a site but must be done in</p>	<p><i>Same as previous mitigation section, with one difference noted below.</i></p>	<p><i>Issue: are these categories of agricultural lands that require mitigation correct?</i></p> <p><i>Issue: are these categories of wildlife habitat that require mitigation correct?</i></p>

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<p>42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(k) For any significant photovoltaic solar resource area, a site within that area with the following characteristics is not eligible for approval of a project under the provisions of this section:</p> <p>(A) Significant Sage-Grouse Habitat described at OAR 660-023-0115(6)(a) and (b). The exact location of Significant Sage-Grouse Habitat may be refined during consideration of a specific project but must be done in consultation with the Oregon Department of Fish and Wildlife (ODFW).</p> <p>(B) Priority Wildlife Connectivity Areas (PWCA's) as designated by the ODFW that do not qualify under subsection (3)(j)(D) of this rule.</p>	<p><i>Same as before, with changes to the Priority Wildlife Conservation Area language as discussed above.</i></p>	<p><i>Issue: are these categories of wildlife habitat that are excluded from consideration under these rules correct?</i></p>

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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p><i>This is where previous language excluding areas within one mile of UGB for a city with more than 2,500 population – further discussion at Commission</i></p> <p>(4) Agricultural Mitigation: (a) For the purposes of this subsection, “compensatory mitigation” means the replacement or enhancement of the impacted resource in equal or greater amounts than predicted to be impacted by a development. (b) Compensatory mitigation for agricultural land may be accomplished in one of the following ways: (A) A county may approve a method, or methods proposed by the applicant when substantial evidence in the record demonstrates that the proposed compensatory mitigation will: (i) Be suitably durable to last until the impact has been removed or no longer exists; (ii) Proximate by being located in the same county or an adjacent county or counties as the proposed impact; and either (iii) Result in no net loss of the agricultural productivity of the property; or (iv) Provide an uplift to the relevant agricultural economy. (B) As an alternative to mitigation provided under subsection (5)(a)(A) necessary compensatory mitigation for agricultural lands protected under Goal 3 may be accomplished by use of a one-time compensatory mitigation payment for the purpose of replacing economic value that is lost by the local community when agricultural land is converted to photovoltaic solar development. The compensatory mitigation payment is to be established pursuant to the calculator included as Attachment A. Use of the mitigation calculator, which is based on the following items, will be considered in all instances to comply with the requirements of this rule: (i) Crop and Pasture Rent Rates gathered from the USDA NASS Quickstats database from the published irrigated, unirrigated crop and pasture rental rates. (ii) General Economic Contribution per Farm and Ranch is based on an average of the local and non-local farm/ranch contributions, determined as</p>	<p><i>This is the same as before – a county can use the objective method based upon calculations, or design a more subjective agricultural mitigation method that meets the standards set here.</i></p> <p><i>Attachment A spreadsheet would be adopted as an appendix to this rule.</i></p>	<p><i>with population greater than 2,500 be excluded under these rules?</i></p> <p><i>Department is not aware of any additional issues.</i></p>
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<p>1 follows: for local and non-local farms, \$.74 and 2 \$.36 for every \$1 produce sold, and for local and 3 non-local ranches, \$.79 and \$.66 for every \$1 sold. 4 5 (iii) The Time-Value of Money Adjusted Productivity 6 of a Farm or Ranch intended to capture the 7 economic productivity of the agricultural land over 8 the life of the solar lease in today's dollars, which 9 is calculated by assessing the Present Value of the 10 agricultural lands contribution by multiplying the 11 Crop Rent as a function of its productivity, by the 12 general economic contribution % to capture its 13 baseline, annual economic contribution to the 14 community. The Present Value is then further 15 calculated from that number using the expected 16 CAP RATE growth and the years of the lease 17 agreement. 18 19 (C) The compensatory mitigation payment 20 established under subsection (5)(a)(B) may be 21 received by the county, a unit of county 22 government, a 501-c-3 not for profit organization 23 operating in the county, a local Soil and Water 24 Conservation District, or similar entity capable of 25 utilizing the funds to provide uplift opportunities for 26 the applicable agricultural sector. 27</p>		
<p>28 (5) Historic, Cultural, and Archaeological 29 Resources: 30 The proposed photovoltaic solar power generation 31 facility shall mitigate potential impacts to historic, 32 cultural, and archeological resources pursuant to 33 the requirements of ORS 215.446(3)(b) and OAR 34 660-023-0210. 35 36 (a) Prior to submittal of an application for 37 development of a photovoltaic solar power 38 generation facility within a renewable photovoltaic 39 solar energy area, an applicant shall compile 40 information on the renewable photovoltaic solar 41 energy site or land within a renewable photovoltaic 42 solar energy area that includes, among other 43 things a records review, field survey, site inventory 44 and cultural resources survey completed by a 45 professional archaeologist as defined in ORS 46 97.740. 47 48 (b) The applicant shall transmit the information 49 compiled to the State Historic Preservation Office 50 (SHPO), any Tribe that may be affected by the 51 application, and applicable local government at 52 least 60 days prior to submitting the application to 53 the county. 54</p>	<p><i>This section is currently undergoing consultation, so there may still be some changes.</i></p> <p><i>This would need to be done for every application submitted – to make an individualized determination as to which of the three categories (no impacts, mitigated impacts, not allowed) the site falls into.</i></p>	<p><i>Is this the best method for dealing with the issue of archaeological, historical, and cultural resources and potential conflicts?</i></p>

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<p>55 56 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33</p>	<p>(c) The information compiled, including the location of any cultural resources shall be kept confidential and not included in the local record.</p> <p>(d) Based upon the information compiled and submitted and comments received, if any, from SHPO and any Tribe that may be affected by the application, a county shall make one of the following determinations in its decision regarding the application :</p> <p>(A) No historical, archaeological, or cultural resources are present;</p> <p>(B) Historical, archaeological, or cultural resources are present, but will be avoided through project design to the extent that no additional mitigation is necessary;</p> <p>(C) Historical, archaeological, or cultural resources are present, but mitigation measures will reduce impacts so that there are no significant adverse impacts to historical, archaeological, or cultural resources;</p> <p>(D) Historical, archaeological, or cultural resources are present, and development will result in significant adverse impacts which cannot be mitigated and an archaeological permit from SHPO may not be obtained.</p> <p>(e) The county shall include any mitigation measures as conditions of approval in the final decision.</p>		
<p>34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54</p>	<p>(6) Community Benefits: All applications for a photovoltaic solar power generation facility within a photovoltaic solar resource area or site shall identify how the project will contribute to addressing community needs and benefits. Identified contributions, financial or otherwise, will be in addition to property tax revenues or payments in lieu of taxes.</p> <p>(a) A county may approve a proposal submitted by the applicant when substantial evidence in the record demonstrates:</p> <p>(A) The proposed contribution or contributions are meaningful and reasonable;</p> <p>(B) The proposed contribution or contributions will serve to help improve a community's social health, well-being, and functioning; and</p>	<p><i>This section is unchanged from previous versions, with addition of \$1K per nameplate MW filled in below.</i></p>	

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<p>55 56 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30</p>	<p>(C) The contribution(s) is received by the county or a unit of county government, a 501-c-3 not for profit organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the community or communities that stand to have the most direct relationship with the subject project.</p> <p>(b) Rather than the standards provided in subsection (6)(a), a county may require one of the following options to address community needs and benefits, which demonstrate compliance with the requirements of this section:</p> <p>(A) The applicant has conducted detailed public outreach activities in advance of submitting an application; and</p> <p>(B) The applicant commits to contributing a one-time payment in an amount representing \$1,000 per nameplate MW prior to construction; or</p> <p>(C) 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; or</p> <p>(D) The applicant creates a Microgrid addressing identified community needs.</p>	<p><i>\$1K per nameplate MW should equal about \$167 per acre.</i></p>	<p><i>Is this the correct amount for mitigation payments?</i></p>
<p>31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54</p>	<p>(7) Maximum Size of Sites A county may approve a photovoltaic solar power generation facility under OAR 660-033-0130(45)(a)(C) as follows:</p> <p>(a) On high-value farmland that qualifies for an exemption pursuant to the provisions of subsection (3)(k)(G) of this section and that is not otherwise limited by the provisions of subsection (3)(k)(E) of this section, the facility may not use, occupy, or cover more than 240 acres.</p> <p>(b) On arable land, the facility may not use, occupy or cover more than 2,560 acres.</p> <p>(c) On non-arable land, the size of the facility is not limited by this rule.</p>	<p><i>Allowances in this section are the maximum allowed by ORS 215.446.</i></p> <p><i>This provision is intended to be limited to lands outside of an irrigation district that have lost their ability to irrigate post January 1, 2024 and do not include “Soils that are irrigated or not irrigated and classified prime, unique, Class I or Class II, unless...”</i></p> <p><i>Although the county maximum for nonarable lands is 3,840 acres, this language means EFSC would no longer require a goal exception on nonarable lands either.</i></p>	<p><i>Related to the issue of allowance for this method on high-value farmland.</i></p> <p><i>Is this an appropriate measure for this rule, or should the limit set be 3,840 acres, and larger EFSC projects would still require a goal exception?</i></p>

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<p>55 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23</p>	<p>(8) Miscellaneous. A local government may approve a photovoltaic solar power generation facility within a significant photovoltaic solar resource area by determining that the following items have been satisfied:</p> <p>(a) An application shall identify whether the proposed site is within a Military Special Use Airspace or a Military Training Route, as may be shown by the ORESA mapping tool or equivalent map. Any application located beneath or within a Military Special Use Airspace or a Military Training Route with a proposed floor elevation of 500 feet above ground level (AGL) or less shall include a glint and glare analysis for the applicable utilized military airspace. Any measures necessary to avoid possible conflicts with low flying aircraft as identified in the glint and glare analysis will be developed in coordination with the United States Department of Defense or Oregon Military Department as applicable, described in the application materials, and attached as conditions of approval to the county decision.</p>	<p><i>No changes to previous military language.</i></p>	<p><i>Department is not aware of any additional issues.</i></p>
<p>24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43</p>	<p>(b) The applicant has contacted and sought comments from the entities listed in subsections (3)(d)(A), and (F)) of this rule at least 30 days prior to submitting a land use application. The requirements of this subsection do not apply when the county code requires a pre-application conference prior to submitting an application that includes at a minimum, those entities listed in subsections (3)(d)(A), (F), and (H) of this rule.</p>	<p>(3)(d)(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 Agriculture. (E) The Oregon Department of Aviation; (F) The United States Department of Defense; (G) The Oregon Legislative Commission on Indian Services (LCIS); and (H) Federally recognized Indian tribes that may be affected by the application.</p>	<p><i>Department is not aware of any additional issues.</i></p>
<p>44 45 46 47 48 49 50 51 52 53 54 55</p>	<p>(c) For a proposed photovoltaic solar power generation facility on high-value farmland, the application shall include a cumulative impacts analysis as set forth in OAR 660-033-0130(38)(h)(G), except that the acreage threshold for the analysis set forth in OAR 660-033-0130(38)(h)(G)(i) and (ii) shall be 300 acres and the impact area set forth in OAR 660-033-0130(38)(h)(G) would be a distance of 2.5 miles.</p>	<p><i>This requirement is already in section 660-033-0130(38) but would be modified here to reflect larger acreage totals and a corresponding larger impact area. The numbers in section (38) are 48 acres and one mile radius, reflecting conditions and sizes primarily in Western Oregon.</i></p>	<p><i>Should this cumulative impacts analysis be imported from existing language in OAR 660-033-0130(38), and if so, are the modifications to correct for size of sites in Eastern Oregon correct?</i></p>

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<p>1 2 3 4 5 6 7 8 9 10 11</p>	<p>(d) For a proposed photovoltaic solar power generation facility on arable land, the application shall include a cumulative impacts analysis as set forth in OAR 660-033-0138(i)(D) except that the acreage threshold for the analysis set forth in OAR 660-033-0130(38)(i)(D)(i) and (ii) shall be 2,000 acres and the impact area set forth in OAR 660-033-0130(38)(h)G) would be a distance of five miles.</p>	<p><i>This requirement is already in section 660-033-0130(38) but would be modified here to reflect larger acreage totals and a corresponding larger impact area. The numbers in section (38) are 80 acres and one mile radius.</i></p>	
<p>12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41</p>	<p>(e) (A) The application will ensure that considerations for the amount, type, and location of temporary workforce housing have been made. This provision may be satisfied by the submittal and county approval of a workforce housing plan prepared by an adequately qualified individual, that demonstrates how temporary workforce housing resulting in a benefit to the local community will be accommodated or that such temporary housing is reasonably likely to occur. The plan need not obligate the applicant to financially secure the temporary housing. The approved plan shall be attached to the decision as a condition of approval.</p> <p>(B) On-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility 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.</p> <p>(C) 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 photovoltaic solar power generation facility. A minor amendment request shall be subject to OAR 660-033-0130(5) and shall not have no effect on the original approval of the project.</p>	<p><i>These provisions are not currently included in OAR 660-033-130(38). This language attempts to capture the RAC discussion.</i></p>	<p><i>Department is not aware of any additional issues.</i></p>
<p>42 43 44 45 46 47 48 49 50 51 52 53 54 55 56</p>	<p>(f) The requirements of OAR 660-033-0130(38)(h)(A) through (D) have been satisfied for proposed photovoltaic solar power generation facilities on high-value farmland and arable land, and the requirements of OAR 660-033-0130(38)(h)(D) have been satisfied for proposed photovoltaic solar power generation facilities on nonarable land.</p>	<p><i>These are a direct reference to existing requirements for all solar development on high value and arable farmland. They read as follows in section (38):</i></p> <p><i>(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</i></p>	<p><i>Should solar developments using this method be subject to these requirements that are applied to sites using the current method for review of solar developments provided in OAR 660-033-0130(38)?</i></p>

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<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50</p>		<p><i>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;</i></p> <p><i>(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;</i></p> <p><i>(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;</i></p> <p><i>(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;</i></p>	
<p>51 52 53 54 55 56</p>	<p>(g) A county may condition approval of a proposed photovoltaic solar power generation facility to address other issues, including but not limited to assuring that the design and operation of the facility will promote the prevention and mitigate the risk of wildfire. The county may approve a wildfire</p>	<p><i>While other conditions of approval aren't mandated by these rules, a county is explicitly authorized to add other conditions, such as wildfire risk mitigation.</i></p>	<p><i>There remains a question as to whether new requirements regarding wildlife and soil health should be</i></p>

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<p>1 plan prepared by an adequately qualified individual 2 that is consistent with the provisions identified at 3 OAR 660-006-0029(1)(d) and OAR 660-006-0035, 4 and then attach implementation of that plan as a 5 condition of approval. 6 7 8 9 10 11 12 13 14</p>		<p><i>made mandatory as opposed to at the discretion of the county.</i></p> <p><i>Alternatively, the section could be removed entirely, because counties can arguably impose such conditions on their own anyway.</i></p>
<p>15 (h) For a photovoltaic solar power generation 16 facility located on arable or nonarable lands, the 17 project is not located on arable soils unless it can 18 be demonstrated that: 19 20 (A) Siting the project on nonarable soils present on 21 the subject tract would significantly reduce the 22 project’s ability to operate successfully; or 23 24 (B) The proposed site is better suited to allow 25 continuation of an existing commercial farm or 26 ranching operation on the subject tract as 27 compared to other possible sites also located on 28 the subject tract, including sites that are comprised 29 of nonarable soils; 30 31 (i) For a photovoltaic solar power generation 32 facility located on nonarable lands no more than 33 2,560 acres of the project will be located on arable 34 soils. 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 1</p>	<p><i>This language addresses two issues: 1) a site that is arable land but contains some nonarable soils; and 2) a site that is nonarable land but contains some arable soils.</i></p> <p><i>The express limitations on high value soils are sufficient to make this issue moot for high value soils.</i></p> <p><i>In each case, this language would require “first choice” for location of the solar facility on nonarable soils, unless the applicant and county could make one of the two findings expressed in subsections (i) and (ii).</i></p> <p><i>The current language on this issue in Section (38) reads as follows:</i></p> <p><i>(E) 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);</i></p> <p><i>(F) 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></p> <p><i>(i) Non high-value farmland soils are not available on the subject tract;</i></p> <p><i>(ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project’s ability to operate successfully; or</i></p>	<p><i>If a site qualifies as nonarable farmland, should the application be required to try to stay off of arable soils (a minority of the overall site)?</i></p> <p><i>If a site qualifies as arable farmland, should the application be required to locate as much as feasible on nonarable soils (a minority of the overall site)?</i></p> <p><i>An alternative on nonarable lands would be to allow development on arable soils within the project site if those soils would have allowed solar development under the provisions of OAR 660-023-0195 and not allow such development if those soils would not have allowed solar development under the provisions of OAR 660-023-0195.</i></p>

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2		<i>(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;</i>	
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10	(j) The county has identified and attached as conditions of approval all mitigation required pursuant to this rule.		<i>Department is not aware of any additional issues.</i>
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14	(k) Any applicable local provisions have been satisfied.		
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17	(9) Farm Impacts Test: Notwithstanding any other rule in Division 33, a county may determine that ORS 215.296 and OAR 660-033-0130(5) for a proposed photovoltaic solar power generation facility on agricultural land are met when the applicable provisions of this section are found to be satisfied.	<i>This is the provision that states compliance with these rules satisfies the “farm impacts” or “good neighbor” test set by the Legislature in ORS 215.296</i>	<i>Department is not aware of any additional issues.</i>
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25	(10) Use of ORESA: In addition to other sources, a local government may rely on data from online mapping tools, such as that data included in the Oregon Renewable Energy Siting Assessment (ORESAs), to inform determinations made under this rule.	<i>This is language referencing using ORESA as an option.</i>	<i>Department is not aware of any additional issues.</i>
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32	(11) REVIEW OF RULE EFFECTIVENESS: On or before July 1, 2027, the department will provide a report to the Land Conservation and Development Commission that:	<i>Now that the rule adoption is delayed until June, 2025, and the effective date is also delayed to allow local governments to decide whether to opt in or opt out, the department recommends pushing back the date for the report to the commission by six months to July 1, 2027.</i>	<i>Should the report date be moved from January 1, 2027, the date in the previous draft, to July 1, 2027?</i>
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37	(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).		
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42	(b) Identifies those counties who have chosen to establish significant photovoltaic solar resource areas pursuant to section 4 of this rule and have not opted out of the provisions of OAR 660-033-0130(45)(a)(B).		
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48	(c) Identifies the number of counties that have chosen not to implement this rule for purposes of considering photovoltaic solar power generation facilities pursuant to section (3)(b) of this rule.		
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53	(d) Describes how well the intent of this rule as stated in section (1) is being accomplished.		
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56	(e) Includes recommended updates, if any, the department identifies as being necessary to better		
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1	accomplish the intent of this rule as stated in section (1).		
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