

EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #11



February 13, 2025

TO: Solar Siting Rulemaking Advisory Committee Members
FROM: Adam Tate, Renewable Energy Planner
SUBJECT: Rulemaking Advisory Committee (RAC) Meeting Packet #11

Dear Solar Siting Rulemaking Advisory Committee Members,

Thank you for continuing to bring your experience and expertise to this rulemaking process, we are grateful for the time and energy you have dedicated to helping us. As you know LCDC has extended our RAC process for two more meetings, the first of these is coming up next week on Thursday, February 20th. In this packet you will find a Meeting Summary from our January 9th RAC meeting, as well as updated rule drafts for Divisions 4, 6, 23 and 33. These new drafts have been simplified and changed in direct response to feedback from the RAC, from LCDC and public comments we have received. The new drafts for Divisions 23 and 33 are now in a format that will hopefully allow all of you to look at the language, look at the department's commentary on that language, and look at issues for discussion at the meeting. The most significant structural change in these new drafts is that they split the two options for Eastern Oregon counties between a direct application for sites (in Division 33) and the "areas" approach (in Division 23).

The new drafts for Divisions 4 and 6 are not as detailed as the drafts for Divisions 23 and 33 because they only have one or two issues each that we need to resolve. As usual, Divisions 23 and 33 will be the primary focus for us. Please take a look at these drafts ahead of time and come prepared to discuss them.

Following this RAC meeting, LCDC will have a public hearing on the rules at their March 20-21 meeting in Salem. Following that there will be an additional RAC meeting on April 2nd before the public comment period closes on April 11th.

The RAC meeting will be on Thursday, February 20th from 9:00 am to 4:00 pm PT, held virtually over Zoom for all participants.

RAC Meeting Packet Contents:

1. Cover Memo
2. Meeting Agenda
3. Summary from 10th RAC Meeting
4. Updated draft rule language for Divisions 4, 6, 23 & 33

To attend the all-virtual meeting please use the following Zoom link for the meeting:

Topic: DLCD: Eastern Oregon Solar Siting RAC Meeting

Time: Feb 20, 2025 09:00 AM Pacific Time (US and Canada)

Join Zoom Meeting

<https://kearnswest.zoom.us/j/86268276628?pwd=ifzklpUmMJcaAedUrN9hYPJt2xyT55.1>

Meeting ID: 862 6827 6628

Passcode: 001280

Casaria Taylor will be providing support for the Zoom meeting.

Casaria.taylor@dlcd.oregon.gov 971-600-7699.

Members of the public can livestream the meeting on the DLCD YouTube Channel

[Oregon DLCD - YouTube](#)

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

Thank you,

Adam Tate

Renewable Energy

Planner

Pronouns: He/His

Oregon Department of Land Conservation and
Development

Cell: 971-446-1079 | Main: 503-373-0050

adam.tate@dlcd.oregon.gov | www.oregon.gov/LCD

Jon Jinings

Community Services Specialist

Pronouns: He/His

Oregon Department of Land Conservation and
Development

Cell: 541-325-6928 | Main: 503-373-0050

jon.jinings@dlcd.oregon.gov | www.oregon.gov/LCD



AGENDA

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

Date and Time

February 20, 2025, from 9:00 am – 4:00 pm PT

- The meeting will be held virtually via Zoom.
- Members of the public can livestream the meeting at <https://www.youtube.com/@OregonDLCD>.

Desired Outcomes and Purpose

- Discuss and resolve outstanding sections of the rule.
- Vote on rule package.

Note that if revisions end early, the vote would occur earlier.

Agenda

Time (PT)	Topic	Lead
9:00 – 9:10 am (10 min)	Welcome and Roll Call	Jamie Damon, Kearns & West Facilitator
9:10 – 10:00 am (50 min)	Status of Revised Rules <ul style="list-style-type: none">• Presentation• Clarifying questions	DLCD
10:00 – 10:50 am (60 min)	Rule Revisions Continued	All
10:50 – 11:00 am (10 min)	<i>Break</i>	All
11:00 am – 12:00 pm (30 min)	Rule Revisions Continued	All
12:00 – 12:30 pm (30 min)	<i>Lunch Break</i>	All



12:30 – 2:00 pm (90 min)	Rule Revisions Continued	All
2:00 – 2:10 pm (10 min)	<i>Break</i>	All
2:10 – 3:30 pm (80 min)	Round Robin Vote	All
3:30 – 4:00 pm (30 min)	Next Steps and Closing <ul style="list-style-type: none">• Timeline• RAC Report	Jamie Damon, Kearns & West Facilitator

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

January 9, 2024, RAC Meeting #10

9am – 5pm

Location: Virtual (Zoom)

This meeting was livestreamed, recorded, and available for viewing at
<https://www.youtube.com/Oregondlcd>.

The following is a high-level summary and meeting overview. Please review the recording and archived meeting packet for details and presentation slides.

Meeting Attendees

RAC Member Attendees:

- Andrea Kreiner, Oregon Association of Conservation Districts
- April Snell, Oregon Water Resources Congress
- Bill Richardson, Rocky Mountain Elk Foundation
- Brandon McMullen, Harney County Planning Director
- Commissioner James Williams, Lake County
- Damien Hall, Oregon Solar+Storage Industries
- Dan Orzech, Oregon Clear Power
- Dugan Marieb, Pine Gate Renewables
- Elaine Albrich, Davis Wright Tremaine
- Emily Griffith, Renewable Northwest
- Greg Corbin, Green Diamond Resource Company
- Laura Tabor, The Nature Conservancy
- Marc Hudson, Oregon Agricultural Trust
- Mike W. McArthur, Community Renewable Energy Association
- Mike Totey, Oregon Hunters Association
- Max Yoklic, New Sun Energy
- Michael Eng, Lostine Fire Wise
- Thad Eakin, Oregon Wheat Growers League

Ex-Officio Attendees:

- Brian Cochran, Oregon Department of State Lands
- Chad Higgins, Oregon State University
- Commissioner Mark Bennett, Land Conservation and Development Commission
- Dan Hubner, Oregon Department of Forestry
- Jeremy Thompson, Oregon Department of Fish and Wildlife
- Todd Farmer, Oregon Military Department
- Tom Jackman, Oregon Department of Energy

DLCD Staff Attendees:

- Adam Tate, Oregon Department of Land Conservation and Development
- Alyssa Bonini, Oregon Department of Land Conservation and Development
- Amanda Punton, Oregon Department of Land Conservation and Development
- Casaria Taylor, Oregon Department of Land Conservation and Development
- Dawn Hert, Oregon Department of Land Conservation and Development
- Gordon Howard, Oregon Department of Land Conservation and Development
- Jon Jinings, Oregon Department of Land Conservation and Development
- Kirstin Greene, Oregon Department of Land Conservation and Development

Welcome, Opening Remarks, and Agenda Review

Jamie Damon, Kearns & West, introduced herself as a neutral third-party facilitator and facilitated introductions between RAC members. Jamie provided an overview of the meeting agenda and objectives. Commissioner Mark Bennett, of the Land Conservation and Development Commission provided brief opening remarks.

Cultural, Historical, Archeological, and Additional Updates

Jon Jinings, Department of Land Conservation and Development (DLCD), shared the Department's expectation for another RAC meeting following the January 23rd LCDC meeting. DLCD staff shared they were unable to provide updated maps prior to the meeting. Previously, the RAC had discussed maps as a possible illustrative tool to better understand how these rules would apply on the ground. After seeing the maps over the last couple of meetings, Jon asked the RAC if they would like room to consider the possibility of making other lands more available. Jon summarized DLCD's additional considerations for RAC discussions:

- Non-irrigated lands with irrigation districts and or AVAs
- Lands meeting the definitions at ORS 195.300(10)(c) and (f) that have no history of irrigation
- Not requiring agricultural mitigation for any class VI soils
- Recognizing that simple conditional use opportunities on forestlands are likely to be elevated from 10-acres to 240-acres
- Staying the course and including this issue in the "scheduled review" set to occur in a couple of years or less

Jamie facilitated a discussion among RAC members:

- **Irrigation Districts.** RAC members reflected on the variety of opportunities for additional solar development while ensuring protection of Oregon's various key resources. A RAC member shared that there could be a variety of opportunities for potential solar and other renewable energy development with partnership and within irrigation districts, but that it is too late in the process for additional discussions on siting within complex irrigation districts.

- **High Value Farmland.** RAC members discussed acreage thresholds within high value farmland and what areas could go through a siting determination process without needing an Energy Facility Siting Council (EFSC) exception.
- **RAC Capacity & Timeline.** While some RAC members expressed appreciation for DLCD's additional considerations, they also expressed that it indicates how much work still needed to be done to bring final recommendations to the LCDC. A RAC member suggested suspending the RAC until after the 2025 Oregon Legislative Session. Another RAC member recommended moving forward with what we have done-to-date and revisiting DLCD's additional considerations during the program review in two years.
- **Tribal Consultation and/or Communication.** A RAC member asked to know more about the Goal 5 Cultural Areas rule making. DLCD shared that on December 5th, 2024, LCDC passed the Goal 5 Cultural Areas Rule to require Tribal consultation and developer and/or applicant engagement with the nine federally recognized Tribes in Oregon. A RAC member asked if consultation is required with the Tribes that have treaty rights over resources in Oregon outside of the nine federally recognized Oregon Tribes. DLCD indicated that the additional engagement would be voluntary, and that Counties where development is sought could provide guidance. There was also discussion on each Tribe having their own definition of consultation and Governor Kotek's active Tribal Consultation Task Force. The RAC discussed how best to characterize the new coordination requirement in this rule making and agreed to change "consultation" to "communication" and "in coordination with" any federally recognized Indian Tribe that may be affected by an application.

The RAC elevated the importance of consistency, especially with the new Goal 5 rules and the Energy Facility Siting Council (EFSC) process.

Outstanding Sections (23, 33, 6 and 4)

Division 23

The RAC reviewed the Division 23 language included in the meeting packet. Jamie facilitated a discussion among RAC members regarding Division 23.

- **Agricultural Mitigation.** The RAC discussed mitigation payments and the use of a mitigation calculator. A RAC member suggested phrasing to clarify that the purpose of mitigation payments is to replace economic value that is lost in the agricultural economy, and the RAC agreed. Another RAC member asked for examples of each mitigation requirement to better understand a project's potential cumulative mitigation obligation. One RAC member highlighted that the charge of the RAC is to identify low conflict areas and expressed concern cumulative mitigation requirements was in conflict with the charge.
- **Historic, Cultural, and Archeological Resources Mitigation.** The group discussed this in the updates section above and decided to change "consult" to "coordinate and communicate".

- **Community Needs and Benefits.** RAC members discussed the rate per megawatt nameplate an applicant would be required to commit to. Some RAC members expressed concern around additional developer costs from agricultural and habitat mitigation and felt \$1000 per nameplate megawatt is too high. A RAC member suggested \$250-\$300 and another suggested offering a range. The RAC discussed offering a set of examples conveying the variety of mitigation and community benefits cost, as a starting place for negotiations between Counties and developers
- **Program to Achieve the Goal.** RAC members reviewed the revisions discussed in the previous RAC meeting, and the requirements for noticing. One RAC member suggested the rules should have different notice requirements for sites versus areas. For areas, it's the full entities list, and for sites, it's the agencies that likely have an interest in verifying the information that is being submitted for the site.

Division 33

The RAC reviewed the Division 33 language included in the meeting packet. Jamie facilitated a discussion among RAC members regarding Division 33.

- **Specific Eastern Oregon Section.** In a previous meeting, DLCD indicated their preference to have two rule sections, with one specific to Eastern Oregon. Some RAC members shared they do not see the need for any separative changes to Division 33 and one RAC member suggested a cross reference to Division 23 to indicate that only sites or areas in Eastern Oregon qualify, helping to determine sites or areas that can use the pathway in division 23 to avoid a goal exception. Some RAC members agreed with this suggestion and found the separation over complicated.
- **Temporary Workforce Housing.** Several RAC members agreed to keep temporary workforce housing in the solar facility definition.
- **Acreage Thresholds.** The RAC discussed acreage limitations and thresholds. Some RAC members expressed concern with the rules as written, stating that the RAC may have identified low conflict locations, but have not streamlined the permitting for facilities in those locations. DLCD indicated it was the charge of the RAC to find balance for solar development and other land uses. Several RAC members brought forward new proposals aimed at elevating acreage thresholds, but the RAC was limited in their time to deliberate on these new proposals.

Some RAC members expressed concerns about scope creep, and divergence from directive in Division 33. A RAC member proposed scrapping all changes to Division 33 except for keeping temporary workforce housing in the solar facility definition; keeping the crosswalk to Division 23 for Eastern Oregon projects; and keeping permit validity/term language – essentially deleting all other new language and revert to existing adopted rule language. A majority of the RAC supported the proposal, in addition to moving new provisions to Division 23.

Division 6

The RAC agreed to move forward with the terminology “parcel” instead of “tract”.

A RAC member proposed increasing the forestry parcel acreage limit to 240, while some RAC members questioned why we are not having similar discussions for agricultural lands. RAC members discussed revisiting acreage thresholds and their applicability in future reviews.

A RAC member called for a vote to approve the recommendation in its current form, with the agreed upon amendments. A majority of the RAC voted in support of moving Division 6 forward. One RAC member objected to the underlying policy development process of only considering adjustments for forestry and not for agricultural lands, and a RAC member seconded. One RAC member expressed neutrality.

Division 4.

The RAC discussed the “Reasons” for exceptions, and a county’s obligation to limit the uses to those that are zoned within that exception and retain the underlying zone. One RAC member highlighted that the rules as written apply a similar concept to those counties that have adopted limited use zoning. One RAC member suggested allowing counties the flexibility to approve a concurrent zone change, while another RAC member shared that they were comfortable with adding that language.

Jamie called for a vote to move forward on this section. RAC votes were split, with a slight majority voting to move this forward. Some RAC members were slightly supportive, while others showed strong support. The RAC highlighted several concerns for LCDRC consideration including retaining the underlying zone as assurances for agricultural use in the future and encouraging counties to consider zone-changes that allow development outright while limiting conflict and the need for mitigation.

Preliminary RAC Vote & Considerations

Jamie facilitated a fist-to-five vote among RAC members. Each voting RAC member was called on in last-name-alphabetical-order for them to share their level of support for the package of rules using the "fist to five" voting method and offering any additional suggestions, considerations or comments. Fist to Five is accomplished by raising hands as in voting, with the number of fingers raised indicating levels of support. RAC members can also choose not to vote by saying "I Abstain".

- A fist means, “I vote NO, I don't support any of it. This should not move forward.”
- 1 finger means, “I don’t like most of this but it's not a hard no.” or, “I think there is lots more work to do to gain my support”
- 2 fingers means, “I don’t support a lot of this, but I am not going to block this moving forward”
- 3 fingers means, “I am in the middle somewhere. Like some of it and do not like some of it. But I support moving forward”
- 4 fingers means, “This is mostly fine, support moving this forward.”

- 5 fingers means, “I like this a lot. I give my full support.”

Jamie shared that it is in LCDC’s interest to see the RAC member’s various levels of support on the different concepts being proposed, their concerns, and the alternatives or tradeoffs the commission should consider.

Elaine Albrich: I am a 1. For Division 4, I object to all changes. I object to the language that would prevent a county from approving a concurrent zone change application with a goal exception for a solar facility. With Division 6, I support the increase in the goal exception and increasing the acreage threshold from 10 to 240 but have concern around the underlying policy development process of only considering adjustments for forestry and not for agricultural lands. For Division 33, I support the cleanup language for the predominance test. I object to all the proposed new language except the clarification that the definition of solar pv facility includes temporary workforce housing as an accessory, cross walking acreage thresholds to division 23, and keeping the permit validity and term language in there. With respect to Division 23, I respect the work the RAC has done and the time that has been committed to making Division 23 what it currently is. I respect and appreciate the collective effort and consensus building we have done over many months of gathering. I do not think we are there yet, and based on the current draft, I must vote no on moving it forward. There are some good elements in Division 23, particularly relating to agricultural mitigation and the community benefit agreement provisions. The rest of the rule structure is incredibly complicated and will be hard to navigate. I propose an alternative path forward for the RAC to consider whereby we increase the Goal 3 exception acreage thresholds to align with 215446 and the EFSC jurisdictional thresholds and allow projects to move forward with local review before counties without a goal exception, subject to the county approving a community benefit agreement that includes an agricultural mitigation element.

Greg Corbin: As a representative of the timber industry and forest products sector, I support the changes made in Division 6. I remain disappointed that we did not make more progress there and did not have a broader set of voices to address issues around forestry. My greatest concern at this point is that we have created a process, criteria, and restrictions that will result in these rules not being a widely used process and likely will not move the needle significantly. I do not think we have produced a process that is going to be widely used. For that reason, I have a hard time fitting where I stand in a fist to 5, so I am going to put myself in the middle with a 3 or 3.5. There has been a lot of good work done. I think that with some additional focus and time we might be able to move the needle further. But I do not think we are there yet, and I would not recommend moving the package forward in its current state.

Michael Eng: I am a 3 at this point. I have been disappointed with the lack of participation by the Public Utility Commission and the utilities. I think that has hindered our understanding of all the requirements and where our flexibility and options are. I think there has been inadequate representation of the broader public interest. The industry folks have done a great job at helping us understand what they would like and what they need, but they are a special interest trying to maximize benefits to the industry. My effort and goal have been to try and create incentives so that

the communities being impacted by this will feel that they're getting something meaningful and worthwhile from it, and that they're not being taken advantage of financial interests. Although our county Commissioner and our planner have done a great job providing valuable input, I feel like this burden is going to fall on county planning departments. I would have liked to see more input from the counties. I see incentives included in community benefits. I think increasing thresholds for agricultural lands is quite arbitrary and we will face resistance. If you look nationwide, and at this new administration, there has been a tremendous amount of resistance increasing around renewable energy projects. There is a great deal of Nimbyism out there. People are not seeing the benefit to their communities. The industry is going to have to flex and get creative to figure out how you make these projects attractive and supported by a community. How do we get people to embrace this as in their own self-interest and know they are getting some real benefit out of it? I think we have done some great work. I think we have been respectful in listening to each other. But I think we have not gotten something that is moving forward for the broader general interest and statewide interest for these projects.

Emily Griffith: I am a 1.5. We have come a long way on building consensus. My concern is around those places that seem uncertain or vague, that are easily appealable, and it plays into the larger questions of whether the program will be used. With the mapping exercise, we saw how much area was potentially eligible, and how much of the criteria were not able to be mapped. It is concerning that there might be even less available land than previously shown. What we heard from our members is that the criteria is still a bit complicated, and as Elaine mentioned, the ability to apply them. We have come a long way on consensus, but I do not know if one more meeting will achieve that.

Damien Hall: I would be at a 1. There is one thing in here that benefits solar, and that would be a path to increased acreage. Unfortunately, we have made that path too complex, and I am not sure if it exists. As a group, we are suffering from a flawed starting point- the vehicle that was delivered to us by Goal 5 is not a necessary vehicle for all this to be happening. I would be supportive of a proposal to increase acreage thresholds to jurisdictional thresholds and then allow for agricultural mitigation. The word "conflict"- we are letting it carry a lot of water here, and we need clarity on what we can and cannot achieve on that front. The idea of conflict, of making everyone happy, so that folks do not show up at a hearing and fill a county courthouse with strident opposition is illusory. A project can be better or worse for the community, but you cannot please everybody, and everybody still gets to show up and say what they think. Public sentiment about a project should not be mistaken with public policy direction about meeting the State's renewable energy goals. We cannot solve for making 100% of the people happy. I think we should invert our thinking on this. We have put up a whole bunch of gates and we cannot understand if it is even possible to increase the amount of solar that gets developed in the State. And we are like, let us come back in a couple of years and see if nothing's happened. We need to identify where solar is allowed and revisit what is happening on the ground based on project data and revisit it frequently. Every 6 months? Let us allow the projects and then throttle it back if too much is happening. If we are trying to achieve increased renewable energy development so that we can meet the energy goals of the State, we

have a proposal that would do that. And I would shorten up reviewing timelines based on information on the ground.

Marc Hudson: I want to first reflect Greg's comments about Division 6. There is a big opportunity missed regarding forestry. With the right stakeholders, and a bit more time and energy, that would have been a broad area of work. I reflect Mike's comments about the Public Utility Commission and agrivoltaics. Regarding Division 23 and 33, I have small stuff. I do not have a lot to say on the complexity of the process, but it would be helpful to understand what the industry is looking at. In Division 3, there is a reference to prolonged drought which I have an issue with the non-statutory definition and could mean a lot of things. For Division 33, I do not dislike Elaine's proposal in the context of that being integrated and crosswalk. I appreciate the effort at creating a boundary line around what creates aggregated localized impact from multiple projects which is beyond local capacity. I think this approach may be too simplistic. Overall, I am probably a 2.5 to a 3.

Andrea Kreiner: As I have said all along, the key pieces to me are the impact on the agricultural economy and the agricultural communities. I propose dividing things into three areas. One being the places where you go ahead and build. Another being the areas where we do not want to speed up the process. Another being the areas we do want to speed up the process, but also recognize the impact, so we need agricultural mitigation. I am opposed to arbitrarily increasing the acreage but will consider an increase in acreage with a discussion of it with mitigation. I want to know what is stopping and holding up projects. I am at 3, because I can live with it, but it is very complicated, and I do not think we are streamlining. I do not think we are harmed by these rules, but I do not think it is going to achieve our goal. I do not think the framework is enabling us to streamline this process. If I were to go back and do this again, I would have started with what is causing projects not to go through easily. I do not think more meetings will help us accomplish our goal. We need to send a report to LCDC with where we are at and with our suggestions. I think we do ourselves a disservice in saying that we could delay till after the session and come back. That's kicking the ball down the road six more months. At this point, I do not think we should be requesting more time before we give LCDC a report.

Laura Tabor: I am a 3. Like what Marc was saying, I do not know what this looks like from a developer's perspective. And thinking about Max's comment, it seems all we are doing is adding costs. We are not streamlining things, and I am trying to understand how much of that cost is from the actual cost of agricultural mitigation and community benefit agreements versus the cost of an uncertain process. When I think of Division 23, the only change we made is to remove mitigation requirements for category 5. My concern around Elaine's proposal and just increasing thresholds and narrowing in on those community benefits and agricultural mitigation pieces, is that when hammering it out, we end up with just as long of a list. What have we defined as lower conflict? Regarding the things discussed today, I am comfortable with the forest change, and glad we are planning to have a future deeper conversation about forest land use, since that is a complex issue. For Division 33, I am agnostic on where those pieces go. I do think some of those provisions like reducing wildfire risk and soil health could be opportunities to reduce conflict and improve projects. On the water side of things, I agree with Marc's comment, and have some other thoughts

on how we could tighten that language. I also appreciated Damien's comment about shorter review timelines. And if we do move forward with something, making sure that that we have the opportunity to see how it is going, because a lot of what I am hearing on the developer concerns is that we are not sure if anything is going to work in this process. I liked Andrea's thoughts on making some recommendations and document to show LCDC where we have gotten. I agree that we might just lose a lot of momentum and end up rehashing a lot of things if we wait to reconvene until after session. From my perspective, I see no harm in moving forward and trying it, but I also hear the frustration that that may not solve the problem. And that is what we are here to do.

Dugan Marieb: I am a 1 right now. We are in a bind here. From the perspective of a company that develops in 33 states, Oregon is the one that makes us think the most, especially in terms of getting projects out the door and communicating with communities and Tribes. A rigorous process is good but also slows the project and makes it more expensive. As a native Oregonian, I appreciate that we always want to find a solution that can help the people. I am with the development community, but the reason I am at a developer is because I am a true believer that these projects can really deliver clean energy, clean air, as well as economic impact in rural communities that do not get a lot of investment otherwise. In terms of agricultural mitigation and community benefits, I think Pinegate projects deliver those and deliver more clarified versions of community benefits beyond tax revenue. I like a lot of the work we have done in Division 23 to standardize some of the best practices of the solar industry. I do think we did not compromise enough. I do not think we opened enough land agriculturally, as we have people, we have talked to on the ground who are landowners who do not agree with the way the state categorizes high value farmland, because it is not high value to them. Considerations around wildlife are key. It is a narrow path to finding a project that would be able to go through this, and I would rather use the processes we already have. More specifically, I cannot support any changes that would affect things that would not go through the streamlined path, both for policy reasons and for the charge of the legislation. In which the new approval standards are required, those are out of scope. We have produced some good ideas. There is a lot of stuff here that we can use and some great drafting from Jon and DLCD. I do not think that LCDC should declare victory, at least not with the RAC's consent at this point.

Mike McArthur: For me, this has been at least three years of discussions about solar siting in Oregon. The last 6-8 months have been the most formal part of that process. It is hard to find consensus on issues when there are competing interests. And that goes back to the State having competing goals. The legislature has set up this conflict by having renewable energy goals and agricultural forest land protection goals. If we are going to achieve both, there are going to have to be tradeoffs. I want to see ways in which decision-making can be increased locally. That is a fundamental Community Renewable Energy Association belief, recognizing we represent local governments who are involved in decisions and developers who are pushing projects and policies favorable to projects. And we must find a balance. We would like to see more projects go through the county conditional use project process because we think that each project has its own individual idiosyncrasies and geography and all the economic factors socioeconomic factors. We appreciate the community benefits recognition that there must be strong community benefits for

these projects to be acceptable to folks in their communities. We think what Pinegate has done is a real model for what can be accomplished. We still have questions about how this will change the siting process at the State level. It is important to report to LCDC on what the RAC has tried to accomplish, what the problems were, and why we did not find bright and shining opportunities. I am a 3-4 on most individual Divisions. I recommend moving this forward to LCDC with both the positives and the incompletes.

Brandon McMullen: I appreciate the different perspectives in this group and applaud the membership elements of this. This has been a good process for all the competing perspectives in this. From a county planning perspective, local comprehensive planning is not easy. You have to make decisions on the constant balance of planning, along with the desire to have economic development and prosperity and clean energy. Where are all these projects going? We are talking agriculture, so how do you build that into it? I like the framework that has been put into place as far as options for counties to move forward and I like the concepts of a more pragmatic approach where a county could launch into a Goal 5 process. Going back to Michael's question on county planning staff capacity, I would say, depending on the project and the approach, we would give it our best shot given the resources and time, and you just make it work. I am somewhere between 3 and 4. I like Andrea's and Mike's suggestions for asking for feedback on what we have.

Bill Richardson: The question of what we are trying to fix is valid, and we have all been wrestling with that since day one. I keep coming back to transmission capacity as one of our biggest obstacles. I have worked on this from a narrow lens. Like Laura said, we compromised on wildlife mitigation in Division 23. I am probably a 3 or 4 on the total package moving forward, like some of the last comments. This is a RAC, and sometimes it is the advice or result of a RAC that the agency needs to make a decision. I feel like we are at an impasse, and this needs to be solved in other ways.

April Snell: I am a 3. And in reflecting on this experience and the comments by other folks, I want to commend DLCD staff for working the best they can through this process, and Jamie and the team at Kearns and West. I am in the middle, and the reasons are both substantive as well as process. I will have little time to engage in additional meetings during the session. Throughout this process there are ideas that come up around language that relates to my constituency, the districts, and their patrons. I am sympathetic to the counties and county planners, as I know those folks who do that work never have enough resources or time. Outside of my water issues, have we created a more expedited process? I do not think so because I do not understand it well. There are some things in place that protect existing resources. From the water agriculture perspective, we want to make sure there are not unintended consequences to water right holders. If you are going to have language that talks about something dealing with land in their relationship to their water supply, it is best to use existing terminology. The designation of lands within irrigation districts being high value farmland is an area with opportunities for future discussion. We want to protect water right holders, and some of them are pursuing solar or floating solar, and they are running into issues with acreage limitations and the arduous process. We have not had enough time to get into the deep, complicated issues where there's challenges, but also opportunities outside or after session. If

there is interest in having more conversation about water and irrigation districts, I would be happy to participate. There is a list of things that are not recommended because we are not there yet but do deserve additional conversation.

Mike Totey: My interest on the RAC has been around wildlife and habitat, and I am comfortable with where we ended up here. If I were just thinking about the wildlife components, I would be a strong 4. Speaking to the broader set of rules and complexities, I appreciate what others have said- Mike McArthur's talked about competing goals and that is where we are at. Overall, I am around a 3. I do not know if we have produced a streamlined process. Just today, we heard a proposal for a tenfold acreage increase, and if it were as simple as that, I believe that would have been brought up eight months ago instead of now. It is hard to have confidence that what we have here is going to resolve our issues or challenges. I am looking forward to the staff report. There's challenging work for staff to do, with a lot of information, and as much time as we have spent on this, there are still more discussions to come.

Commissioner James Williams: I am a 3-4 on Division 4. I am 4 on Division 33 and 3. I am a 4 on Division 23. I just shared a letter with DLCD, and they can share that with the RAC. For Division 6, we need a few wider perspectives on forestry at the table. I do feel like thresholds can change as they have been changing. I think we will end up tweaking things, whether in the RAC or in our own capacity representing the organizations we do and visiting legislators. Division 33, I am a 3 only with the amendments that we talked about, otherwise I am a 2. I feel like we put a lot of work into Division 23, with a lot of innovation, so I am giving that a 4. I feel I am being generous with my scoring because when I step back, I am not sure this moves the needle and actually fixes what we think is broke. I am going to be patiently watching to see how many developers and counties take advantage of this process. Land use is difficult. It is not my expertise; it is not my background. I know there are big challenges in our State, and I'm not sure this process is going to solve those problems. It is important to move forward with what we have produced so far. Oregon is continuing to lead the way and making mistakes, and we are trying to pave a road to what we feel needs success. I appreciate the thoughtful process and comments throughout the day. Personally, this has been educational for me, and I have learned a lot. There is a lot more work to do.

Max Yoklic: It has been a pleasure getting to know everybody and learn different perspectives. I think this roundtable discussion has been the best discussion we have had on these issues, and that shows how much work has gone into it, and what we are honing in on. From the developer side, I have spoken to the consensus that this program is not going to be used because it is too complex, nascent, and potentially subject to litigation and new case precedent. We've identified some lower conflict sites, and we have produced a new pathway, but that pathway is not streamlined or efficient. We are not expediting the outcomes of trying to achieve more renewable energy projects in better locations. That became apparent through the mapping process. There is more work to do, and I agree with other RAC members around needing to revisit solar rules with more frequency and not doing this every five years. As Mike McArthur said, land use is at odds with our clean energy goals. The smart people here give me hope that we can get to a good outcome. Despite people's fist to five numbers, I heard almost every RAC member say they either do not

think this will achieve the goal of the legislature or this is not expedited path, or this is not going to be used, and that means were not there yet. We produced good agricultural mitigation and community benefits and a pathway for more strategic and creative community involvement. I think the agency wants to test this Goal 5 proposal, despite the developer community proposing changes to the goal exceptions in the first meeting and throughout the process. I will leave the RAC and the department with a compromise proposal: leave Division 23 and let us see what the counties do and the administrative burden they face. Keep agricultural mitigation in the context of community benefits, and give that approval to the counties, and we let the counties decide what community benefits and agricultural mitigation is appropriate per project based on community inputs. We put cultural, historical, archeological, and ODFW habitat mitigation policies in Division 33. We could raise Goal 3 exception thresholds and raise new county jurisdictional thresholds. Thanks everyone for their hard work, it has been a pleasure, and I hope we can get to an outcome.

Next Steps and Closing

Jamie closed by thanking the RAC for being tough on the issues and soft on the people. Gordon Howard provided brief closing remarks and thanked the RAC for their participation and comments today. Commissioner Mark Bennett provided some closing remarks and encouraged people to communicate directly with LCDC.

Jamie suggested using this meeting summary to reflect discussion and be a deliverable to LCDC. Jamie offered to develop a RAC summary for their discussion at their last meeting as a “report from the RAC” to LCDC. The RAC generally agreed with that approach.

Next Steps:

- DLCD to schedule additional half day RAC meeting the week of January 28 after the January 23 LCDC meeting. It was noted that the last day for LCDC to receive public comment and input from the RAC is February 5.

Meeting Adjourn

The meeting adjourned at 4:53 pm.

RULE LANGUAGE

1 **660-004-0018**
2 **Planning and Zoning for Exception Areas**
3 (1) Purpose. This rule explains the requirements for adoption
4 of plan and zone designations for exceptions. Exceptions to
5 one goal or a portion of one goal do not relieve a jurisdiction
6 from remaining goal requirements and do not authorize uses,
7 densities, public facilities and services, or activities other than
8 those recognized or justified by the applicable exception.
9 Physically developed or irrevocably committed exceptions
10 under OAR 660-004-0025 and 660-004-0028 and 660-014-
11 0030 are intended to recognize and allow continuation of
12 existing types of development in the exception area. Adoption
13 of plan and zoning provisions that would allow changes in
14 existing types of uses, densities, or services requires the
15 application of the standards outlined in this rule.
16
17 (2) For "physically developed" and "irrevocably committed"
18 exceptions to goals, residential plan and zone designations
19 shall authorize a single numeric minimum lot size and all plan
20 and zone designations shall limit uses, density, and public
21 facilities and services to those that satisfy (a) or (b) or (c) and,
22 if applicable, (d):
23
24 (a) That are the same as the existing land uses on the
25 exception site;
26
27 (b) That meet the following requirements:
28
29 (A) The rural uses, density, and public facilities and services
30 will maintain the land as "Rural Land" as defined by the goals,
31 and are consistent with all other applicable goal requirements;
32
33 (B) The rural uses, density, and public facilities and services
34 will not commit adjacent or nearby resource land to uses not
35 allowed by the applicable goal as described in OAR 660-004-
36 0028; and
37
38 (C) The rural uses, density, and public facilities and services
39 are compatible with adjacent or nearby resource uses;
40
41 (c) For uses in unincorporated communities, the uses are
42 consistent with OAR 660-022-0030, "Planning and Zoning of
43 Unincorporated Communities", if the county chooses to
44 designate the community under the applicable provisions of
45 OAR chapter 660, division 22;
46
47 (d) For industrial development uses and accessory uses
48 subordinate to the industrial development, the industrial uses
49 may occur in buildings of any size and type provided the
50 exception area was planned and zoned for industrial use on
51 January 1, 2004, subject to the territorial limits and other
52 requirements of ORS 197.713 and 197.714.
53
54 (3) Uses, density, and public facilities and services not meeting
55 section (2) of this rule may be approved on rural land only
56 under provisions for a reasons exception as outlined in section

RULE LANGUAGE

1 (4) of this rule and applicable requirements of OAR 660-004-
2 0020 through 660-004-0022, 660-011-0060 with regard to
3 sewer service on rural lands, OAR 660-012-0070 with regard
4 to transportation improvements on rural land, or OAR 660-014-
5 0030 or 660-014-0040 or 660-014-0090 with regard to urban
6 development on rural land.
7
8 (4) "Reasons" Exceptions:
9
10 (a) When a local government takes an exception under the
11 "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-
12 0020 through 660-004-0022, OAR 660-014-0040, or OAR 660-
13 014-0090, plan and zone designations must limit the uses,
14 density, public facilities and services, and activities to only
15 those that are justified in the exception.
16
17 (b) When a local government changes the types or intensities
18 of uses or public facilities and services within an area
19 approved as a "Reasons" exception, a new "Reasons"
20 exception is required.
21
22 (c) When a local government includes land within an
23 unincorporated community for which an exception under the
24 "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-
25 0020 through 660-004-0022 was previously adopted, plan and
26 zone designations must limit the uses, density, public facilities
27 and services, and activities to only those that were justified in
28 the exception or OAR 660-022-0030, whichever is more
29 stringent.
30
31
32

This is the language that would be added, if the RAC agrees, not allowing rezones from the underlying farm or forest zoning district when a goal exception is approved.

d) When a local government approves an exception for a photovoltaic solar power generation facility under OAR 660-004-0020 through OAR 660-004-0022 the subject property shall remain zoned for exclusive farm use, forest use or mixed farm and forest; whichever is applicable. The local government shall also continue to apply the relevant approval criteria included at OAR 660-033-0130(38), OAR 660-033-0130(45) or OAR 660-006-0025(4).

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	
4	standards in section (5) of this rule:	
5	*****	
6	(j) Commercial utility facilities for the purpose of generating power, not	
7	including photovoltaic solar power generation facilities in eastern Oregon. A	
8	power generation facility considered under this subsection shall not preclude	
9	more than 10 acres from use as a commercial forest operation unless an	
10	exception is taken pursuant to OAR chapter 660, division 4;	
11	<u>(k) Commercial utility facilities for the purpose of generating power as a</u>	
12	<u>photovoltaic solar power generation facility in eastern Oregon, under</u>	
13	<u>the following standards:</u>	
14	<u>(A) A power generation facility considered under this subsection</u>	
15	<u>shall not preclude more than 240 acres from use as a commercial</u>	
16	<u>forest operation unless an exception is taken pursuant to OAR</u>	
17	<u>chapter 660, division 4.</u>	
18	<u>(B) An application for a facility under this subsection shall comply</u>	
19	<u>with the requirements of ORS 215.446(3).</u>	
20	(5) A use authorized by section (4) of this rule may be allowed provided the	
21	following requirements or their equivalent are met. These requirements are	
22	designed to make the use compatible with forest operations and agriculture and to	
23	conserve values found on forest lands:	
24	(a) The proposed use will not force a significant change in, or significantly	
25	increase the cost of, accepted farming or forest practices on agriculture or forest	
26	lands;	
27	(b) The proposed use will not significantly increase fire hazard or significantly	
28	increase fire suppression costs or significantly increase risks to fire suppression	
29	personnel; and	
30	(c) A written statement recorded with the deed or written contract with the county	
31	or its equivalent is obtained from the land owner that recognizes the rights of	
32	adjacent and nearby land owners to conduct forest operations consistent with the	
33	Forest Practices Act and Rules for uses authorized in subsections (4)(e), (m), (s),	
34	(t) and (w) of this rule.	
35	(6) Nothing in this rule relieves governing bodies from complying with other	
36	requirement contained in the comprehensive plan or implementing ordinances	
37	such as the requirements addressing other resource values (e.g., Goal 5) that	
38	exist on forest lands.	
39	*****	
40	*****	
41		
42	660-006-0050	
43	Uses Authorized in Agriculture/Forest Zones	
44	(1) Governing bodies may establish agriculture/forest zones in accordance with	
45	both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.	
46	(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in	
47	OAR 660-006-0025 and 660-006-0027, subject to the requirements of the	
48	applicable section, may be allowed in any agricultural/forest zone. The county	
49	shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling	
50	in an agriculture/forest zone based on the predominant use of the tract on	
51	January 1, 1993.	
52	(3) Dwellings and related structures authorized under section (2), where the	
53	predominant use is forestry, shall be subject to the requirements of OAR 660-006-	
54	0029 and 660-006-0035.	
55	<u>(4) A county in Eastern Oregon shall apply either OAR chapter 660,</u>	
56	<u>division 6 or 33 standards for siting a photovoltaic solar power generation</u>	

On forest land in Eastern Oregon, the maximum size of a project that does not require an exception to Goal 4 would go from 10 acres to 240 acres.

This would require the proposal to meet the basic standards the legislature has set forth in ORS 215.446

This copies language in Division 33 for mixed farm-forest lands.

1	<u>facility in an agriculture/forest zone based on the predominant use of the</u>	<i>Relies on lot or parcel, rather than “tract” to determine predominant use.</i>
2		

RULE LANGUAGE

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

	RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
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>where both are present. Also referred to as "cultural resource site."</p> <p>(d) "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.</p> <p>(e) "Historic Resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.</p> <p>(f) "Microgrid" means a local electric grid with discrete electrical boundaries, acting as a single and controllable entity and able to operate in grid-connected or island mode.</p> <p>(g) "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, or wherein limitations may be imposed upon aircraft operations that are not a part of those activities. Limitations may be imposed upon aircraft operations that are not a part of the airspace activities. Military special use airspace includes any associated underlying surface and subsurface training areas.</p> <p>(h) "Military Training Route" means airspace of defined vertical and lateral dimensions established for the conduct of military flight training at indicated airspeeds in excess of 250 knots.</p> <p>(i) "Oregon Renewable Energy Siting Assessment (ORESAS)" is a renewable energy mapping tool housed on Oregon Explorer.</p> <p>(j) "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</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 maintenance buildings, staging areas and all other 2 necessary appurtenances, including but not limited 3 to on-site and off-site facilities for temporary 4 workforce housing for workers constructing a 5 photovoltaic solar power generation facility. For 6 purposes of applying the acreage standards of this 7 section, a photovoltaic solar power generation 8 facility includes all existing and proposed facilities 9 on a single tract, as well as any existing and 10 proposed facilities determined to be under 11 common ownership on lands with fewer than 1320 12 feet of separation from the tract on which the new 13 facility is proposed to be sited. Projects connected 14 to the same parent company or individuals shall be 15 considered to be in common ownership, 16 regardless of the operating business structure. A 17 photovoltaic solar power generation facility does 18 not include a net metering project established 19 consistent with ORS 757.300 and OAR chapter 20 860, division 39 or a Feed-in-Tariff project 21 established consistent with ORS 757.365 and 22 OAR chapter 860, division 84.</p> <p>23</p> <p>24 (k) "Significant Photovoltaic solar resource area" is 25 an area consisting of lands that are particularly 26 well suited for the siting of photovoltaic solar power 27 generation facilities because they have been 28 determined to be significant pursuant to section 3 29 of this rule. Multiple photovoltaic solar power 30 generation facilities may be located within a 31 photovoltaic solar resource area.</p> <p>32</p> <p>33 (l) "Transmission Line" is a linear utility facility by 34 which a utility provider transmits or transfers 35 electricity from a point of origin or generation or 36 between transfer stations.</p> <p>37</p> <p>38 (m) "Tribe" as defined in ORS 182.162(2), means 39 a federally recognized Indian tribe in Oregon, 40 except where the definition in ORS 97.740 applies 41 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 (3) Significant Photovoltaic Solar Resource 43 Areas:</p> <p>44</p> <p>45 (a) Counties may establish significant photovoltaic 46 solar resource areas through the adoption of a 47 local program consistent with this section that 48 includes a comprehensive plan amendment and 49 implementing land use regulations found to be 50 consistent with the provisions of this rule.</p> <p>51</p> <p>52 (b) To implement this rule for the purpose of 53 establishing significant photovoltaic solar resource 54 areas a county shall follow the post- 55 acknowledgment plan amendment process 56 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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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	<p>(c) Prior to conducting a hearing to consider an ordinance establishing a significant photovoltaic solar resource area or areas a local government will hold one or more public meetings to solicit input from county residents. The public meeting(s) must occur in areas of the county that include lands likely to be determined significant photovoltaic solar resources. The county must provide mailed notice of the meeting(s) to property owners in the within such areas and within a two-mile radius of such areas. The county must also provide mailed notice to any physical address assigned to property in the general vicinity of such areas as shown in county assessor records that are not the same as the property owner's address.</p> <p>(d) In addition to submitting the notice of the proposed amendment to the Director of the Department of Land Conservation and Development required by ORS 197.610(1), the county shall provide notice of the Post-Acknowledgement Plan Amendment to:</p> <p>(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. Each county shall obtain a list of tribes with an ancestral connection to land within their jurisdiction from the Oregon Legislative Commission on Indian Affairs and shall send notice to all tribes in the commission's response.</p>	<p><i>Requirement for public meetings and input as part of the county planning process under this option.</i></p> <p><i>Notice required to these parties as well.</i></p>	
41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56	<p>(e) When designating a significant photovoltaic solar resource area, a county may choose not to identify conflicting uses as would otherwise be required by OAR 660-023-0030 through 660-023-0050. In the alternative, a county may choose to conduct a more detailed analysis that may lead to the identification of conflicting uses.</p> <p>(f) If a county chooses to identify conflicting uses under subsection (3)(e) of this rule, a county may choose not to limit or prohibit conflicting uses on nearby or surrounding lands. In the alternative, a county may choose to conduct a more detailed analysis of economic, social, environmental and energy (ESEE) consequences that could lead to a decision to limit or prohibit conflicting uses within a</p>	<p><i>This language was in previous draft, moved to front of this section.</i></p> <p><i>This language was in previous draft, moved to front of this section.</i></p>	<p><i>Department is not aware of any additional issues.</i></p>

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1	significant photovoltaic solar resource area for		
2	photovoltaic solar power generation facilities or on		
3	lands nearby a photovoltaic solar resource site.		
4			
5	(g) If a county chooses to conduct an additional		
6	analysis subsection (3)(f) of this rule, it must follow		
7	the provisions of OAR 660-023-0040.		
8			
9	(h) (A) To qualify as a significant photovoltaic solar	<i>Basic characteristics of</i>	
10	resource area, an area must be primarily		
11	constituted of lands which have the following	<i>significance previously agreed to.</i>	
12	characteristics:		
13			
14	(i) Topography with a slope that is predominantly		
15	15% or less;		
16			
17	(ii) An estimated Annual Solar Utility-Scale		
18	Capacity Factor of 19 percent or greater; and.		
19			
20	(iii) Location predominantly within 10 miles of a		
21	transmission line with a rating of 69 KV or above.		
22			
23	(B) A county may determine that additional areas		
24	within the county, despite not qualifying as		
25	potentially significant photovoltaic solar resource		
26	areas under subsection (3)(h)(A) of this rule, have		
27	potential for renewable solar energy development		
28	significant enough to be designated as significant		
29	photovoltaic solar resource areas;		
30			
31	(C) A county may determine that areas within the		
32	county, despite qualifying as potentially significant		
33	photovoltaic solar resource areas under		
34	subsection (3)(h)(A) of this rule, have constraints		
35	or limitations that allow the county to not include		
36	such sites as significant photovoltaic solar		
37	resource areas.		
38			
39	(i) For any significant photovoltaic solar resource		
40	area, a site within that area with the following		
41	characteristics requires no mitigation:		
42			
43	(A) Agricultural lands protected under Goal 3 that		
44	are:		
45			
46	(i) comprised of soils as classified by the U.S.		
47	Natural Resources Conservation Service (NRCS)		
48	with an agricultural capability class VII and VIII; or		
49			
50	(ii) comprised of soils as classified by the U.S.		
51	Natural Resources Conservation Service (NRCS)		
52	with an agricultural capability class VI and do not		
53	have the ability to produce 300 pounds of forage		
54	per acre per year;		
55			
56			

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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>(B) Lands characterized by ODFW as Category 5 or 6, or other areas of poor to no value as wildlife habitat or with little or no restoration potential based on field data provided by the applicant and developed in consultation with ODFW. The exact location or categorization of wildlife habitat may be refined during consideration of a site but must be done in consultation with ODFW.</p> <p>(C) Sites where the construction and operation of the photovoltaic solar power generation facility will not result in significant adverse impacts to Historic, Cultural or Archaeological Resources because no such resources are present, or if resources are present, they will be avoided through project design to the extent that no additional mitigation is necessary, as provided in section 5 of this rule.</p> <p>(D) Notwithstanding subsections (3)(i)(A) through (C) of this rule, a county may find that sites within solar photovoltaic resource areas described in subsections (3)(i)(a) through (3)(c) of this rule require additional mitigation measures as specified by the county;</p>	<p><i>Cultural/archaeological significance will always require a site-by-site analysis, because these resources cannot be publicly mapped and many are unknown at this time. Section 5 will give procedures for how to do this.</i></p> <p><i>This allows counties to be more strict and require mitigation for these resources if the county believes it is necessary.</i></p>	<p><i>require mitigation correct?</i></p> <p><i>Issue: given the unknown nature of archaeological and cultural resources, a site by site analysis seems to be the only way to deal with this issue.</i></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>(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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1	consultation with ODFW. Mitigation for wildlife		
2	habitat described in this paragraph shall be		
3	consistent with the requirements of ORS		
4	215.446(3)(a).		
5			
6	(C) Wildlife Habitat: Eastern Oregon Deer Winter		
7	Range, Eastern Oregon Elk Winter Range, Big		
8	Horn Sheep Habitat, and Pronghorn Essential and		
9	Limited Habitat as identified by Oregon Renewable		
10	Energy Siting Assessment (ORESAs). The exact		
11	location of wildlife habitat identified by this		
12	subsection may be refined during consideration of		
13	a site but in consultation with ODFW. Mitigation for		
14	wildlife habitat described in this paragraph shall be		
15	consistent with the requirements of ORS		
16	215.446(3)(a).		
17			
18	(D) Priority Wildlife Conservation Areas where the	<i>This has been reworded – previous</i>	
19	ODFW makes a finding, based on site specific	<i>version had this category entirely in</i>	
20	conditions, that mitigation for wildlife habitat	<i>the “off-limits” section but allowed</i>	
21	consistent with the requirements of ORS	<i>a determination by ODFW that it</i>	
22	215.446(3)(a) reduces impacts from the	<i>might be mitigated. This puts such</i>	
23	photovoltaic solar power generation facility to a	<i>areas into the “mitigation required”</i>	
24	level acceptable to ODFW.	<i>category.</i>	
25			
26	€ Sites where the construction and operation of	<i>Section 5 will provide how to do</i>	
27	the photovoltaic solar power generation facility	<i>this.</i>	
28	may result in significant adverse impacts to		
29	Historic, Cultural or Archaeological Resources as		
30	defined in Section (2) but the project incorporates		
31	necessary mitigation measures pursuant to section		
32	5 of this rule.		
33			
34	(F) Notwithstanding subsections (3)(j)(A) through €	<i>This allows a county to be stricter</i>	<i>Issue: should</i>
35	of this rule, a county may find that individual sites	<i>than the baseline and move areas</i>	<i>counties be allowed</i>
36	within solar photovoltaic resource areas described	<i>from “mitigation required” to “not</i>	<i>to be stricter than the</i>
37	in subsections (3)(j)(A) through € of this rule have	<i>allowed.”</i>	<i>“mitigation required”</i>
38	impacts that are too significant to be mitigated and		<i>baseline? Counties</i>
39	thus are not eligible for approval under the		<i>would not be able to</i>
40	provisions of this section.		<i>do this under the</i>
41			<i>“sites” language in</i>
42			<i>Division 33.</i>
43	(k) For any significant photovoltaic solar resource	<i>Same as before, with changes to</i>	
44	area, a site within that area with the following	<i>the Priority Wildlife Conservation</i>	
45	characteristics is not eligible for approval of a	<i>Area language as discussed above.</i>	
46	project under the provisions of this section:		
47			
48	(A) Significant Sage-Grouse Habitat described at		<i>Issue: are these</i>
49	OAR 660-023-0115(6)(a) and (b). The exact		<i>categories of wildlife</i>
50	location of Significant Sage-Grouse Habitat may		<i>habitat that are</i>
51	be refined during consideration of a specific project		<i>excluded from</i>
52	but must be done in consultation with the Oregon		<i>consideration under</i>
53	Department of Fish and Wildlife (ODFW).		<i>these rules correct?</i>
54			
55	(B) Priority Wildlife Connectivity Areas (PWCA's)		
56	as designated by the ODFW that do not qualify		
	under subsection (3)(j)(D) of this rule.		

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1			
2	(C) High Use and Very High Use Wildlife Migration		
3	Corridors designated by ODFW. The exact location		
4	of high use and very high use wildlife mitigation		
5	corridors may be refined during consideration of a		
6	site but must be done in consultation with ODFW.		
7			
8	(D) Wildlife habitat characterized by ODFW as		
9	Category 1 based on field data provided by the		
10	applicant and developed in consultation with		
11	ODFW. The exact location and characterization of		
12	Category 1 wildlife habitat may be refined during		
13	consideration of a site but must be done in		
14	consultation with ODFW.		
15			
16	(E) Soils that are irrigated or not irrigated and		<i>Issue: are these</i>
17	classified prime, unique, Class I or Class II as		<i>categories of</i>
18	classified by the U.S. Natural Resources		<i>agricultural lands</i>
19	Conservation Service (NRCS), unless such soils		<i>that are excluded</i>
20	make up no more than five percent of a proposed		<i>under these rules</i>
21	Photovoltaic Solar Site and are present in an		<i>correct?</i>
22	irregular configuration or configurations that		
23	prevent them from being independently managed		
24	for farm use.		
25			
26	(F) High-Value Farmland as defined at ORS		
27	195.300(10)(c) through (f) that does not qualify for		
28	an exemption pursuant to the provisions of		
29	subsection (3)(k)(G) and that is not otherwise		
30	limited by the provisions of subsection (3)(k)(E).		
31			
32	(G) Agricultural lands protected under Goal 3 with		
33	an appurtenant water right on January 1, 2024.		
34	This subsection does not apply if the ability to use		
35	the appurtenant water right to irrigate subject		
36	property becomes limited or prohibited due to a		
37	situation that is beyond the control of the water		
38	right holder including but not limited to: prolonged		
39	drought, critical groundwater designations or other		
40	state regulatory action, reduced federal contract		
41	allocations, and other similar regulatory		
42	circumstances. If retained, the appurtenant water		
43	right has been transferred to another portion of the		
44	subject property, tract or another property and		
45	maintained for agricultural purposes.		
46			
47	(H) Sites where the construction and operation of		
48	the photovoltaic solar power generation facility will		
49	result in significant adverse impacts to Historic,		
50	Cultural or Archaeological Resources that cannot		
51	be mitigated pursuant to the provisions of section 5		
52	of this rule.		
53			
54	(I) Lands included within Urban Reserve Areas		<i>Issue: should lands</i>
55	acknowledged pursuant to OAR chapter 660,		<i>within one mile of an</i>
56	division 21.		<i>urban growth</i>
			<i>boundary for a city</i>

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1		<i>This is where previous language</i>	<i>with population</i>
2		<i>excluding areas within one mile of</i>	<i>greater than 2,500 be</i>
3		<i>UGB for a city with more than 2,500</i>	<i>excluded under these</i>
4		<i>population – further discussion at</i>	<i>rules?</i>
5		<i>Commission</i>	
6	(4) Agricultural Mitigation:	<i>This is the same as before – a</i>	<i>Department is not</i>
7	(a) For the purposes of this subsection,	<i>county can use the objective</i>	<i>aware of any</i>
8	“compensatory mitigation” means the replacement	<i>method based upon calculations,</i>	<i>additional issues.</i>
9	or enhancement of the impacted resource in equal	<i>or design a more subjective</i>	
10	or greater amounts than predicted to be impacted	<i>agricultural mitigation method that</i>	
11	by a development.	<i>meets the standards set here.</i>	
12			
13	(b) Compensatory mitigation for agricultural land		
14	may be accomplished in one of the following ways:		
15			
16	(A) A county may approve a method, or methods		
17	proposed by the applicant when substantial		
18	evidence in the record demonstrates that the		
19	proposed compensatory mitigation will:		
20			
21	(i) Be suitably durable to last until the impact has		
22	been removed or no longer exists;		
23			
24	(ii) Proximate by being located in the same county		
25	or an adjacent county or counties as the proposed		
26	impact; and either		
27			
28	(iii) Result in no net loss of the agricultural		
29	productivity of the property; or		
30			
31	(iv) Provide an uplift to the relevant agricultural		
32	economy.		
33			
34	(B) As an alternative to mitigation provided under		
35	subsection (5)(a)(A) necessary compensatory		
36	mitigation for agricultural lands protected under		
37	Goal 3 may be accomplished by use of a one-time		
38	compensatory mitigation payment for the purpose		
39	of replacing economic value that is lost by the local		
40	community when agricultural land is converted to		
41	photovoltaic solar development. The		
42	compensatory mitigation payment is to be		
43	established pursuant to the calculator included as	<i>Attachment A spreadsheet would</i>	
44	Attachment A. Use of the mitigation calculator,	<i>be adopted as an appendix to this</i>	
45	which is based on the following items, will be	<i>rule.</i>	
46	considered in all instances to comply with the		
47	requirements of this rule:		
48			
49	(i) Crop and Pasture Rent Rates gathered from the		
50	USDA NASS Quickstats database from the		
51	published irrigated, unirrigated crop and pasture		
52	rental rates.		
53			
54	(ii) General Economic Contribution per Farm and		
55	Ranch is based on an average of the local and		
56	non-local farm/ranch contributions, determined as		

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

This section is unchanged from previous versions, with addition of \$1K per nameplate MW filled in below.

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>55 (C) The contribution(s) is received by the county or 56 a unit of county government, a 501-c-3 not for 1 profit organization operating in the county, a local 2 Soil and Water Conservation District, or similar 3 entity capable of utilizing the funds to provide uplift 4 opportunities for the community or communities 5 that stand to have the most direct relationship with 6 the subject project. 7</p> <p>8 (b) Rather than the standards provided in 9 subsection (6)(a), a county may require one of the 10 following options to address community needs and 11 benefits, which demonstrate compliance with the 12 requirements of this section: 13</p> <p>14 (A) The applicant has conducted detailed public 15 outreach activities in advance of submitting an 16 application; and 17</p> <p>18 (B) The applicant commits to contributing a one- 19 time payment in an amount representing \$1,000 20 per nameplate MW prior to construction; or 21</p> <p>22 (C) The applicant commits to ensuring that 23 emergency service providers are guaranteed a 24 source of electricity during a power outage event 25 through providing battery storage or some other 26 method; or 27</p> <p>28 (D) The applicant creates a Microgrid addressing 29 identified community needs. 30</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 (7) Maximum Size of Sites 32 A county may approve a photovoltaic solar power 33 generation facility under OAR 660-033- 34 0130(45)(a)(C) as follows: 35</p> <p>36 (a) On high-value farmland that qualifies for an 37 exemption pursuant to the provisions of subsection 38 (3)(k)(G) of this section and that is not otherwise 39 limited by the provisions of subsection (3)(k)(E) of 40 this section, the facility may not use, occupy, or 41 cover more than 240 acres. 42</p> <p>43</p> <p>44</p> <p>45</p> <p>46 (b) On arable land, the facility may not use, occupy 47 or cover more than 2,560 acres. 48</p> <p>49 (c) On non-arable land, the size of the facility is not 50 limited by this rule. 51 52 53 54</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>

	RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
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>(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>
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43	<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>
44 45 46 47 48 49 50 51 52 53 54 55	<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>

	RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
1 2 3 4 5 6 7 8 9 10 11	(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.	<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>	
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	(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. (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. (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.	<i>These provisions are not currently included in OAR 660-033-130(38). This language attempts to capture the RAC discussion.</i>	<i>Department is not aware of any additional issues.</i>
42 43 44 45 46 47 48 49 50 51 52 53 54 55 56	(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.	<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> <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>	<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>

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1		<i>multiple fields in such a way that</i>	
2		<i>creates small or isolated pieces of</i>	
3		<i>property that are more difficult to farm,</i>	
4		<i>and placing photovoltaic solar power</i>	
5		<i>generation facility project components</i>	
6		<i>on lands in a manner that could disrupt</i>	
7		<i>common and accepted farming</i>	
8		<i>practices;</i>	
9			
10		<i>(B) The presence of a photovoltaic</i>	
11		<i>solar power generation facility will not</i>	
12		<i>result in unnecessary soil erosion or</i>	
13		<i>loss that could limit agricultural</i>	
14		<i>productivity on the subject property.</i>	
15		<i>This provision may be satisfied by the</i>	
16		<i>submittal and county approval of a soil</i>	
17		<i>and erosion control plan prepared by</i>	
18		<i>an adequately qualified individual,</i>	
19		<i>showing how unnecessary soil erosion</i>	
20		<i>will be avoided or remedied. The</i>	
21		<i>approved plan shall be attached to the</i>	
22		<i>decision as a condition of approval;</i>	
23			
24		<i>(C) Construction or maintenance</i>	
25		<i>activities will not result in unnecessary</i>	
26		<i>soil compaction that reduces the</i>	
27		<i>productivity of soil for crop production.</i>	
28		<i>This provision may be satisfied by the</i>	
29		<i>submittal and county approval of a</i>	
30		<i>plan prepared by an adequately</i>	
31		<i>qualified individual, showing how</i>	
32		<i>unnecessary soil compaction will be</i>	
33		<i>avoided or remedied in a timely</i>	
34		<i>manner through deep soil</i>	
35		<i>decompaction or other appropriate</i>	
36		<i>practices. The approved plan shall be</i>	
37		<i>attached to the decision as a condition</i>	
38		<i>of approval;</i>	
39			
40		<i>(D) Construction or maintenance</i>	
41		<i>activities will not result in the unabated</i>	
42		<i>introduction or spread of noxious</i>	
43		<i>weeds and other undesirable weed</i>	
44		<i>species. This provision may be</i>	
45		<i>satisfied by the submittal and county</i>	
46		<i>approval of a weed control plan</i>	
47		<i>prepared by an adequately qualified</i>	
48		<i>individual that includes a long-term</i>	
49		<i>maintenance agreement. The</i>	
50		<i>approved plan shall be attached to the</i>	
51		<i>decision as a condition of approval;</i>	
52	(g) A county may condition approval of a proposed	<i>While other conditions of approval</i>	<i>There remains a</i>
53	photovoltaic solar power generation facility to	<i>aren't mandated by these rules, a</i>	<i>question as to</i>
54	address other issues, including but not limited to	<i>county is explicitly authorized to</i>	<i>whether new</i>
55	assuring that the design and operation of the	<i>add other conditions, such as</i>	<i>requirements</i>
56	facility will promote the prevention and mitigate the	<i>wildfire risk mitigation.</i>	<i>regarding wildlife and</i>
	risk of wildfire. The county may approve a wildfire		<i>soil health should be</i>

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1	plan prepared by an adequately qualified individual		<i>made mandatory as</i>
2	that is consistent with the provisions identified at		<i>opposed to at the</i>
3	OAR 660-006-0029(1)(d) and OAR 660-006-0035,		<i>discretion of the</i>
4	and then attach implementation of that plan as a		<i>county.</i>
5	condition of approval.		
6			
7			<i>Alternatively, the</i>
8			<i>section could be</i>
9			<i>removed entirely,</i>
10			<i>because counties</i>
11			<i>can arguably impose</i>
12			<i>such conditions on</i>
13			<i>their own anyway.</i>
14			
15	(h) For a photovoltaic solar power generation	<i>This language addresses two</i>	<i>If a site qualifies as</i>
16	facility located on arable or nonarable lands, the	<i>issues: 1) a site that is arable land</i>	<i>nonarable farmland,</i>
17	project is not located on arable soils unless it can	<i>but contains some nonarable soils;</i>	<i>should the</i>
18	be demonstrated that:	<i>and 2) a site that is nonarable land</i>	<i>application be</i>
19		<i>but contains some arable soils.</i>	<i>required to try to stay</i>
20	(A) Siting the project on nonarable soils present on	<i>The express limitations on high</i>	<i>off of arable soils (a</i>
21	the subject tract would significantly reduce the	<i>value soils are sufficient to make</i>	<i>minority of the overall</i>
22	project's ability to operate successfully; or	<i>this issue moot for high value soils.</i>	<i>site)?</i>
23			
24	(B) The proposed site is better suited to allow	<i>In each case, this language would</i>	<i>If a site qualifies as</i>
25	continuation of an existing commercial farm or	<i>require "first choice" for location of</i>	<i>arable farmland,</i>
26	ranching operation on the subject tract as	<i>the solar facility on nonarable</i>	<i>should the</i>
27	compared to other possible sites also located on	<i>soils, unless the applicant and</i>	<i>application be</i>
28	the subject tract, including sites that are comprised	<i>county could make one of the two</i>	<i>required to locate as</i>
29	of nonarable soils;	<i>findings expressed in subsections</i>	<i>much as feasible on</i>
30		<i>(i) and (ii).</i>	<i>nonarable soils (a</i>
31	(i) For a photovoltaic solar power generation	<i>The current language on this issue</i>	<i>minority of the overall</i>
32	facility located on nonarable lands no more than	<i>in Section (38) reads as follows:</i>	<i>site)?</i>
33	2,560 acres of the project will be located on arable		
34	soils.		<i>An alternative on</i>
35			<i>nonarable lands</i>
36			<i>would be to allow</i>
37		<i>(E) Except for electrical cable</i>	<i>development on</i>
38		<i>collection systems connecting the</i>	<i>arable soils within</i>
39		<i>photovoltaic solar generation facility to</i>	<i>the project site if</i>
40		<i>a transmission line, the project is not</i>	<i>those soils would</i>
41		<i>located on those high-value farmland</i>	<i>have allowed solar</i>
42		<i>soils listed in OAR 660-033-0020(8)(a);</i>	<i>development under</i>
43			<i>the provisions of OAR</i>
44		<i>(F) The project is not located on those</i>	<i>660-023-0195 and</i>
45		<i>high-value farmland soils listed in OAR</i>	<i>not allow such</i>
46		<i>660-033-0020(8)(b)-(e) or arable soils</i>	<i>development if those</i>
47		<i>unless it can be demonstrated that:</i>	<i>soils would not have</i>
48			<i>allowed solar</i>
49		<i>(i) Non high-value farmland soils are</i>	<i>development under</i>
50		<i>not available on the subject tract;</i>	<i>the provisions of OAR</i>
51			<i>660-023-0195.</i>
52		<i>(ii) Siting the project on non high-value</i>	
53		<i>farmland soils present on the subject</i>	
54		<i>tract would significantly reduce the</i>	
55		<i>project's ability to operate</i>	
1		<i>successfully; or</i>	

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2		(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;	
3			
4			
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6			
7			
8			
9			
10	(j) The county has identified and attached as conditions of approval all mitigation required pursuant to this rule.		Department is not aware of any additional issues.
11			
12			
13	(k) Any applicable local provisions have been satisfied.		
14			
15			
16			
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.	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	Department is not aware of any additional issues.
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24			
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.	This is language referencing using ORESA as an option.	Department is not aware of any additional issues.
26			
27			
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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:	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.	Should the report date be moved from January 1, 2027, the date in the previous draft, to July 1, 2027?
33			
34			
35			
36			
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).		
38			
39			
40			
41			
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).		
43			
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45			
46			
47			
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.		
49			
50			
51			
52			
53	(d) Describes how well the intent of this rule as stated in section (1) is being accomplished.		
54			
55			
56	(e) Includes recommended updates, if any, the department identifies as being necessary to better		
57			

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1	accomplish the intent of this rule as stated in section (1).		
2			

1

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 <u>OAR 660-033-0130</u></p> <p>2 ...</p> <p>3 (38) A proposal to site a photovoltaic solar power</p> <p>4 generation facility except for a photovoltaic solar</p> <p>5 power generation facility <u>in Eastern Oregon</u></p> <p>6 <u>subject to the provisions of subsections</u></p> <p>7 <u>(45)(a)(B) and (C)</u> shall be subject to the</p> <p>8 following definitions and provisions:</p> <p>9 ...</p> <p>10 (45)(a) A county may review a proposed</p> <p>11 photovoltaic solar power generation facility on</p> <p>12 agricultural land in Eastern Oregon under one of</p> <p>13 the following three alternatives:</p> <p>14</p> <p>15 (A) A county may review a proposed photovoltaic</p> <p>16 solar power generation facility on agricultural</p> <p>17 land under the provisions of OAR 660-033-</p> <p>18 0130(38).</p> <p>19</p> <p>20 (B) If a county has not adopted a program under</p> <p>21 the provisions of OAR 660-023-0195, a county</p> <p>22 may review a proposed photovoltaic solar power</p> <p>23 generation facility on agricultural land reviewed in</p> <p>24 Eastern Oregon under the provisions of</p> <p>25 subsections (b) through (l) of this section; or</p> <p>26</p> <p>27 (C) A county may review a proposed photovoltaic</p> <p>28 solar power generation facility on agricultural</p> <p>29 land reviewed in Eastern Oregon under the</p> <p>30 provisions of OAR 660-023-0195.</p> <p>31</p> <p>32</p>	<p><i>The division 38 language is otherwise unchanged. This method remains available with no changes for Eastern Oregon counties and solar developers.</i></p> <p><i>The section (38) existing method, unchanged.</i></p> <p><i>A county has the option of using this method under OAR 660-033-0130(45) or adopting a program under OAR 660-023-0195.</i></p> <p><i>This is the third option, going to OAR 660-023-0195 for a more individualized county program re: solar development.</i></p>	<p><i>Should the existing Division 38 method for Eastern Oregon solar remain completely unchanged? Or should additional conditions regarding wildfire and soil health, perhaps other things, be added?</i></p> <p><i>Clear delineation between three methods for considering solar in Eastern Oregon. Does this work?</i></p>
<p>33 (b) A proposal to site a photovoltaic solar power</p> <p>34 generation facility under OAR 660-038-</p> <p>35 0130(45)(a)(B) shall be subject to the following</p> <p>36 definitions and provisions:</p> <p>37</p> <p>38 (A) "Arable land" means land in a tract that is</p> <p>39 predominantly cultivated or, if not currently</p> <p>40 cultivated, predominantly comprised of arable</p> <p>41 soils.</p> <p>42</p> <p>43 (B) "Arable soils" means soils that are suitable for</p> <p>44 cultivation as determined by the governing body</p> <p>44 or its designate based on substantial evidence in</p> <p>46 the record of a local land use application, but</p> <p>47 "arable soils" does not include high-value</p> <p>48 farmland soils described at ORS 195.300(10)</p> <p>49 unless otherwise stated.</p> <p>50</p> <p>51 (C) "Eastern Oregon" means that portion of the</p> <p>52 State of Oregon lying east of a line beginning at</p> <p>53 the intersection of the northern boundary of the</p> <p>54 state and the western boundary of Wasco</p>	<p><i>These definitions are the same as in Section (38) except as indicated.</i></p> <p><i>A key point to remember: all of the soils definition that involve "land" mean that a parcel of land is looked at as a whole, and if a majority of the soils are "high-value," "arable," or "nonarable," then the whole parcel is classified as that category, despite the existence of a minority of soils in the parcel in another category.</i></p> <p><i>New definition added.</i></p>	<p><i>The department is not aware of any problems with any of these definitions.</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 County, thence southerly along the western 2 boundaries of the counties of Wasco, Jefferson, 3 Deschutes and Klamath to the southern 4 boundary of the state.</p> <p>5</p> <p>6 (D) “High-value farmland means land described 7 in ORS 195.300(10). 8</p> <p>9 (E) “Nonarable land” means land in a tract that is 10 predominantly not cultivated and predominantly 11 comprised of nonarable soils. 12</p> <p>13 (F) “Nonarable soils” means soils that are not 14 suitable for cultivation. Soils with an NRCS 15 agricultural capability class V–VIII and no history 16 of irrigation shall be considered nonarable in all 17 cases. The governing body or its designate may 18 determine other soils, including soils with a past 19 history of irrigation, to be nonarable based on 20 substantial evidence in the record of a local land 21 use application. 22</p> <p>23 (G) “Photovoltaic solar power generation facility” 24 includes, but is not limited to, an assembly of 25 equipment that converts sunlight into electricity 26 and then stores, transfers, or both, that 27 electricity. This includes photovoltaic modules, 28 mounting and solar tracking equipment, 29 foundations, inverters, wiring, storage devices 30 and other components. Photovoltaic solar power 31 generation facilities also include electrical cable 32 collection systems connecting the photovoltaic 33 solar generation facility to a transmission line, all 34 necessary grid integration equipment, new or 35 expanded private roads constructed to serve the 36 photovoltaic solar power generation facility, 37 office, operation and maintenance buildings, 38 staging areas and all other necessary 39 appurtenances, including but not limited to on- 40 site and off-site facilities for temporary workforce 41 housing for workers constructing a photovoltaic 42 solar power generation facility. For purposes of 43 applying the acreage standards of this section, a 44 photovoltaic solar power generation facility 44 includes all existing and proposed facilities on a 46 single tract, as well as any existing and proposed 47 facilities determined to be under common 48 ownership on lands with fewer than 1320 feet of 49 separation from the tract on which the new 50 facility is proposed to be sited. Projects 51 connected to the same parent company or 52 individuals shall be considered to be in common 53 ownership, regardless of the operating business structure. A photovoltaic solar power generation</p>	<p><i>This language added regarding temporary workforce housing comes from the existing definition in the department’s administrative rules governing wind energy.</i></p>	

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 facility does not include a net metering project 2 established consistent with ORS 757.300 and 3 OAR chapter 860, division 39 or a Feed-in-Tariff 4 project established consistent with ORS 757.365 5 and OAR chapter 860, division 84. 6</p>		
<p>7 (c)(A) A county shall consider applications for a 8 proposed photovoltaic solar power generation 9 facility pursuant to OAR 660-033-0130(45)(a)(B) 10 unless a county has either: 11 12 (i) Approved a program for significant solar 13 photovoltaic resource areas under the provisions 14 of OAR 660-023-0195; or 15 16 (ii) Taken action through the county elected body, 17 either prior to, or after the effective date of this 18 rule that declines to consider photovoltaic solar 19 power generation facilities under OAR 660-033- 20 0130(45)(a)(B). 21 22 (B) A county may choose to consider photovoltaic 23 solar power generation facilities under OAR 660- 24 033-0130(45)(a)(A) or (C). 25 26</p>	<p><i>This is the “opt out” provision – the county will directly apply the rules in this section unless they take action, through the county elected body, to “opt out.” It would not require a post-acknowledgment plan amendment, thus would not be a land use decision.</i></p> <p><i>The existing rules in Section (38) and the program adoption in 660-023-0195 are entirely voluntary for counties.</i></p>	<p><i>Should counties have to formally opt out of the rules, otherwise apply the “sites” rules in this section directly?</i></p> <p><i>The department is not aware of any issues with this provision.</i></p>
<p>27 (d) A county may approve a photovoltaic solar 28 power generation facility under OAR 660-033- 29 0130(45)(a)(B) as follows: 30 31 (A) On high-value farmland that qualifies for an 32 exemption pursuant to the provisions of 33 subsection (d)(D)(vii) of this section and that is 34 not otherwise limited by the provisions of 35 subsection (d)(D)(vi) of this section, the facility 36 may not use, occupy, or cover more than 160 37 acres. 38 39 40 41 42 43 44 45 (B) On arable land, the photovoltaic solar power 46 generation facility may not use, occupy, or cover 47 more than 1,280 acres. 48 49 50 51 (C) On non-arable land, the photovoltaic solar 52 power generation facility may not use, occupy, or 53 cover more than 1,920 acres. 54</p>	<p><i>A very limited allowance on high value farmlands, see language below for details.</i></p> <p><i>The maximum that these rules can allow on high value farmland is 240 acres per ORS 215.446. This number is lower to encourage counties and solar developers toward the 660-023-0195 “program” method.</i></p> <p><i>This is simpler than the provisions in OAR 660-023-0195 and is half the maximum that these rules can allow (2,560 acres).</i></p> <p><i>This is simpler than the provisions in OAR 660-023-0195 and is half the maximum that these rules can allow (3,840 acres).</i></p>	<p><i>Are these the correct restrictions for any solar development on high-value farmland pursuant to these rules?</i></p> <p><i>Are these numbers appropriate to encourage counties and solar developers who want even larger sites to use the 660-023 method?</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 (D) Notwithstanding subsections (45)(d)(A) 2 through (C) of this section, a county may not 3 approve a photovoltaic solar power generation 4 facility under OAR 660-033-0130(45)(a)(B) on 5 land that is: 6 7 (i) Significant Sage-Grouse Habitat described at 8 OAR 660-023-0115(6)(a) and (b). The exact 9 location of Significant Sage-Grouse Habitat may 10 be refined during consideration of a specific 11 project but must be done in consultation with 12 ODFW. 13 14 (ii) Priority Wildlife Connectivity Areas (PWCA's) 15 as designated by the Oregon Department of Fish 16 and Wildlife (ODFW) that do not qualify under 17 section 660-023-0195(3)(d)(E). 18 19 (iii) High Use and Very High Use Wildlife 20 Migration Corridors designated by ODFW. The 21 exact location of high use and very high use 22 wildlife mitigation corridors may be refined during 23 consideration of a site but must be done in 24 consultation with ODFW. 25 26 (iv) Wildlife habitat characterized by ODFW as 27 Category 1 based on field data provided by the 28 applicant and developed in consultation with 29 ODFW. The exact location and characterization 30 of Category 1 wildlife habitat may be refined 31 during consideration of a site but must be done in 32 consultation with ODFW. 33 34 (v) On lands included within Urban Reserve 35 Areas acknowledged pursuant to OAR chapter 36 660, division 21. 37 38 39 40 41 42 43 44 44 46 47 (vi) Soils that are irrigated or not irrigated and 48 classified prime, unique, Class I or Class II, as 49 classified by the U.S. Natural Resources 50 Conservation Service (NRCS), unless such soils 51 make up no more than five percent of a proposed 52 Photovoltaic Solar Site and are present in an 53 irregular configuration or configurations that 54</p>	<p><i>These sections import the prohibitions on the most sensitive wildlife habitat that have been negotiated and are in OAR 660-023-0195.</i></p> <p><i>Imported from OAR 660-023-0195.</i></p> <p><i>Identical to language included at draft OAR 660-023-0195(3)(k)(E).</i></p>	<p><i>Should wildlife habitat provisions be less restrictive under this method than under the “areas” method in OAR 660-023?</i></p> <p><i>The “one mile from a UGB with a population of greater than 2,500 is removed because it reflects the views of the RAC at this time. The department intends to bring this issue before the commission for its review.</i></p> <p><i>Are these the correct restrictions for any solar development on high-value farmland pursuant to these rules?</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 prevent them from being independently managed 2 for farm use.</p> <p>3</p> <p>4 (vii) Agricultural lands protected under Goal 3 5 with an appurtenant water right on January 1, 6 2024. This subsection does not apply if the ability 7 to use the appurtenant water right to irrigate 8 subject property becomes limited or prohibited 9 due to a situation that is beyond the control of the 10 water right holder including but not limited to: 11 prolonged drought, critical groundwater 12 designations or other state regulatory action, 13 reduced federal contract allocations, and other 14 similar regulatory circumstances. If retained, the 15 appurtenant water right has been transferred to 16 another portion of the subject property, tract or 17 another property and maintained for agricultural 18 purposes.</p> <p>19</p> <p>20 (viii) Sites where the construction and operation 21 of the photovoltaic solar power generation facility 22 will result in significant adverse impacts to 23 Historic, Cultural or Archaeological Resources 24 that cannot be mitigated pursuant to the 25 provisions of OAR 660-023-0195(5). 26</p>	<p><i>From draft OAR 660-023-0195(3)(k)(G).</i></p> <p><i>Consistent with language included at draft OAR 660-023-0195(3)(k)(H).</i></p>	<p><i>The base language in OAR 660-023-0195(5) is still under consultation with SHPO and Tribes.</i></p>
<p>27 (e) Approval of a proposed photovoltaic solar 28 power generation facility under OAR 660-033- 29 0130(45)(a)(B) is subject to the following 30 requirements:</p> <p>31</p> <p>32 (A) The proposed photovoltaic solar power 33 generation facility is located in an area with the 34 following characteristics:</p> <p>35</p> <p>36 (i) Topography with a slope that is predominantly 37 15% or less; 38</p> <p>39 (ii) An estimated Annual Solar Utility-Scale 40 Capacity Factor of 19 percent or greater; and 41</p> <p>42 (iii) Location predominantly within 10 miles of a 43 transmission line with a rating of 69 KV or above. 44</p>	<p><i>This language is imported from the language negotiated in OAR 660-023-0195.</i></p>	<p><i>The department does not see including the ability of counties to vary “significant” solar areas as in the OAR 660-9023-0195 rules, since these rules are to be directly applied by counties.</i></p>
<p>44 (B) For a proposed photovoltaic solar power 46 generation facility on high-value farmland, the 47 application shall include a cumulative impacts 48 analysis as set forth in OAR 660-033- 49 0130(38)(h)(G), except that the acreage 50 threshold for the analysis set forth in OAR 660- 51 033-0130(38)(h)(G)(i) and (ii) shall be 300 acres 52 and the impact area set forth in OAR 660-033- 53 0130(38)(h)(G) would be a distance of 2.5 miles.</p>	<p><i>This requirement is already in section (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 these requirements from Section (38), which apply to all solar development today, be carried over to this section, and if so, should the numbers be enlarged to reflect</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 (C) For a proposed photovoltaic solar power 2 generation facility on arable land, the application 3 shall include a cumulative impacts analysis as 4 set forth in OAR 660-033-0138(i)(D) except that 5 the acreage threshold for the analysis set forth in 6 OAR 660-033-0130(38)(i)(D)(i) and (ii) shall be 7 2,000 acres and the impact area set forth in OAR 8 660-033-0130(38)(h)G) would be a distance of 9 five miles.</p>	<p><i>This requirement is already in section (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><i>larger projects in Eastern Oregon?</i></p>
<p>11 (D) The proposed photovoltaic solar power 12 generation facility shall take measures to mitigate 13 agricultural impacts as set forth in OAR 660-023- 14 0195(4) (B) and (C).</p>	<p><i>The reference here is to the “one-time cash payment” section for agricultural mitigation in OAR 660-023-0195(4). This is simpler and more objective for counties and solar developers to implement.</i></p>	<p><i>The department does not see a good way to allow the county discretion found in parallel provisions in OAR 660-023-0195, since this would be directly applied by the counties.</i></p>
<p>22 (E) The proposed photovoltaic solar power 23 generation facility shall take measures to provide 24 community benefits as set forth in OAR 660-023- 25 0195(6)(b).</p>	<p><i>The reference here is to the simpler and less subjective option for community benefits in OAR 660-023-0195(6). This is simpler and more objective for counties and solar developers to implement.</i></p>	<p><i>Same comment as directly above.</i></p>
<p>32 (F) The proposed photovoltaic solar power 33 generation facility shall mitigate potential impacts 34 to fish and wildlife habitat pursuant to the 35 requirements of ORS 215.446(3)(a).</p>	<p><i>While shorter, this is basically the requirement that is also in OAR 660-023-0195.</i></p>	
<p>37 (G) The proposed photovoltaic solar power 38 generation facility shall mitigate potential impacts 39 to historic, cultural, and archeological resources 40 pursuant to the requirements of OAR 660-023- 41 0195(5).</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>This section is currently undergoing consultation with SHPO and Tribes, so is not final.</i></p>
<p>46 (H) (i) The application will ensure that 47 considerations for the amount, type, and location 48 of temporary workforce housing have been 49 made. This provision may be satisfied by the 50 submittal and county approval of a workforce 51 housing plan prepared by an adequately qualified 52 individual, that demonstrates how temporary 53 workforce housing resulting in a benefit to the 54 local community will be accommodated or that</p>	<p><i>These provisions are new.</i></p>	<p><i>The department is not aware of any issues with this provision.</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 such temporary housing is reasonably likely to 2 occur. The plan need not obligate the applicant 3 to financially secure the temporary housing. The 4 approved plan shall be attached to the decision 5 as a condition of approval. 6 7 (ii) On-site and off-site facilities for temporary 8 workforce housing for workers constructing a 9 photovoltaic solar power generation facility must 10 be removed or converted to an allowed use 11 under OAR 660-033-0130(19) or other statute or 12 rule when project construction is complete. 13 14 (iii) Temporary workforce housing facilities not 15 included in the initial approval may be considered 16 through a minor amendment request filed after a 17 decision to approve a photovoltaic solar power 18 generation facility. A minor amendment request 19 shall be subject to OAR 660-033-0130(5) and 20 shall not have no effect on the original approval 21 of the project. 22</p>		
<p>23 (I) The requirements of OAR 660-033- 24 0130(38)(h)(A) through (D) have been satisfied 25 for proposed photovoltaic solar power generation 26 facilities on high-value farmland and arable land, 27 and the requirements of OAR 660-033- 28 0130(38)(h)(D) have been satisfied for proposed 29 photovoltaic solar power generation facilities on 30 nonarable land. 31 32 33 34 35 36 37 38 39 40 41 42 43 44 44 46 47 48 49 50 51 52 53 54</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 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</i></p>	<p><i>Should these standards, which apply to solar developments throughout Oregon through Section 38, apply to projects in Eastern Oregon reviewed under this method?</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p>	<p><i>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>41</p> <p>42</p> <p>43</p> <p>44</p> <p>44</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p>	<p>(J) 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 plan prepared by an adequately qualified individual that is consistent with the provisions identified at OAR 660-006-0029(1)(d) and OAR 660-006-0035, and then attach implementation of that plan as a condition of approval.</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>Should new requirements regarding wildlife and soil health should be made mandatory as opposed to at the discretion of the county?</i></p>
<p>54</p>	<p>(K) For a photovoltaic solar power generation facility located on arable or nonarable lands, the</p>	<p><i>This language addresses two issues: 1) a site that is arable</i></p> <p><i>Should these requirements,</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 project is not located on arable soils unless it can</p> <p>2 be demonstrated that:</p> <p>3</p> <p>4 (i) Siting the facility on nonarable soils present on</p> <p>5 the subject tract would significantly reduce the</p> <p>6 project's ability to operate successfully; or</p> <p>7</p> <p>8 (ii) The proposed site is better suited to allow</p> <p>9 continuation of an existing commercial farm or</p> <p>10 ranching operation on the subject tract as</p> <p>11 compared to other possible sites also located on</p> <p>12 the subject tract, including sites that are</p> <p>13 comprised of nonarable soils;</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52 (L) For a photovoltaic solar power generation</p> <p>53 facility located on nonarable lands no more than</p>	<p><i>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 at (d)(D)(vi) "Soils that are irrigated or not irrigated and classified prime, unique, Class I or Class II..." 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 in section (38) reads as follows:</i></p> <p><i>(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></p> <p><i>(i) Nonarable soils are not available on the subject tract;</i></p> <p><i>(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or</i></p> <p><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 nonarable soils;</i></p>	<p><i>currently required of all solar developments under section (38), be required for projects considered under these rules as well?</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>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 1,280 acres of the facility will be located on 2 arable soils. 3</p>		
<p>4 (f) Notwithstanding any other rule in this division, 5 a county may determine that ORS 215.296 and 6 OAR 660-033-0130(5) for a proposed 7 photovoltaic solar power generation facility are 8 met when the applicable provisions of OAR 660- 9 033-0130(45)(b) through (e) are found to be 10 satisfied. 11</p>	<p><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></p>	<p><i>The department is not aware of any issues with this provision.</i></p>
<p>12 (g) A county shall satisfy the requirements of 13 OAR 660-023-0195(8)(a) and (b). 14 15 16</p>	<p><i>This is a reference to the Department of Defense airspace requirements in OAR 660-023-0195,</i></p>	<p><i>The department is not aware of any issues with this provision.</i></p>
<p>17 (h) A permit approved for a photovoltaic solar 18 power generation facility shall be valid until 19 commencement of construction or for six years, 20 whichever is less. A county may grant up to two 21 extensions for a period of up to 24 months each 22 when an applicant makes a written request for an 23 extension of the development approval period 24 that is submitted to the county prior to the 25 expiration of the approval period. 26 27 (i) A county may grant a permit described in 28 subsection (j) a third and final extension for 29 period of up to 24 months if: 30 31 (A) An applicant makes a written request for an 32 extension of the development approval period 33 prior to the expiration of the second extension 34 granted under subsection (f) of this section; 35 36 (B) The applicant states reasons that prevented 37 the applicant from beginning or continuing 38 development within the approval period; and 39 40 (C) The county determines that the applicant was 41 unable to begin or continue development during 42 the approval period for reasons for which the 43 applicant was not responsible. 44</p>	<p><i>This is the time period before expiration of a permit language agreed to in Moro by the RAC.</i></p>	<p><i>The department is not aware of any issues with this provision.</i></p>
<p>45 (j) In addition to other sources, a local 46 government may rely on data from online 47 mapping tools, such as that data included in the 48 Oregon Renewable Energy Siting Assessment 49 (ORESA), to inform determinations made under 50 this rule. 51</p>	<p><i>This is language referencing using ORESA as an option.</i></p>	<p><i>The department is not aware of any issues with this provision.</i></p>
<p>52 (k) The county governing body or its designate 53 shall require as a condition of approval for a 54 photovoltaic solar power generation facility, that</p>	<p><i>These last two provisions are in Section (38) and are carried over to here.</i></p>	<p><i>The department is not aware of any</i></p>

RULE LANGUAGE	COMMENTARY	DISCUSSION POINTS
<p>1 the project owner sign and record in the deed</p> <p>2 records for the county a document binding the</p> <p>3 project owner and the project owner's successors</p> <p>4 in interest, prohibiting them from pursuing a claim</p> <p>5 for relief or cause of action alleging injury from</p> <p>6 farming or forest practices as defined in ORS</p> <p>7 30.930(2) and (4).</p> <p>8</p> <p>9 (I) Nothing in this section shall prevent a county</p> <p>10 from requiring a bond or other security from a</p> <p>11 developer or otherwise imposing on a developer</p> <p>12 the responsibility for retiring the photovoltaic</p> <p>13 solar power generation facility.</p> <p>14</p>		<p><i>issues with this provision.</i></p>
<p>15 <u>660-033-0145</u></p> <p>16 Agriculture/Forest Zones</p> <p>17</p> <p>18 (1) Agriculture/forest zones may be established</p> <p>19 and uses allowed pursuant to OAR 660-006-</p> <p>20 0050;</p> <p>21</p> <p>22 (2) Land divisions in agriculture/forest zones may</p> <p>23 be allowed as provided for under OAR 660-006-</p> <p>24 0055; and</p> <p>25</p> <p>26 (3) Land may be replanned or rezoned to an</p> <p>27 agriculture/forest zone pursuant to OAR 660-</p> <p>28 006-0057.</p> <p>29</p> <p>30 <u>(4) A county in Eastern Oregon shall apply</u></p> <p>31 <u>either OAR chapter 660, division 6 or 33</u></p> <p>32 <u>standards for siting a photovoltaic solar</u></p> <p>33 <u>power generation facility in an</u></p> <p>34 <u>agriculture/forest zone based on the</u></p> <p>35 <u>predominant use of the tract on January 1,</u></p> <p>36 <u>2024.</u></p>	<p><i>Language regarding mixed farm-forest zoning districts agreed to by the RAC.</i></p>	<p><i>The department is not aware of any issues with this provision.</i></p>