

From: [Jamin Giersbach](#)
To: [TAYLOR Casaria * DLCD](#)
Subject: Public comment on NewSun Energy rulemaking petition (solar permit duration)
Date: Tuesday, September 22, 2026 2:00:13 PM

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Ms. Taylor,

Please enter the comment below in the record on NewSun Energy's petition to change the solar permit duration rules. Thank you.

Jamin

September 21, 2026

Land Conservation and Development Commission
Department of Land Conservation and Development
Attn: Casaria Taylor, Senior Rules Coordinator

Re: NewSun Energy petition, solar permit life on farmland

Dear Commissioners:

Today a solar permit on farmland in Jackson or Josephine County gets two years to start building. It can get one more year if the delay was not the developer's fault. After that it can only be extended a year at a time, and only if the rules have not changed. NewSun's petition would give that same permit six years, then two more extensions of up to two years each for nothing more than a written request, then a third if the delay was not the developer's fault. That is up to twelve years.

A field approved for solar could sit for twelve years with nothing built on it. For the first ten, the developer never has to explain a delay, and nobody has to check whether the state's farmland rules have changed. The Oregon Wheat Growers League saw this coming. Writing about the same six year term for eastern Oregon, the League warned of "dormant approvals that would lock up land and drive up the costs to farmers."

That six year term was written for eastern Oregon. In June 2025 your staff told you the eastern Oregon pathway is "an alternative to the still-existing solar permitting processes." The same eastern Oregon rule makes developers offset farm impacts and provide community benefits. The petition takes the long permit and leaves those out. Your department also called permit length "a candidate for additional study," and the first report on how the eastern Oregon rule is working is due by July 1, 2027. That rule took effect this January.

NewSun says the rule "is not complex." We agree. The state's farmland rules already tell counties how long these permits last on this side of the state. There is nothing unclear to fix. The one concrete example NewSun gives is eastern Oregon counties opting out of the new rules, and that is an eastern Oregon problem.

Please deny the petition. If the Commission opens a rulemaking anyway, please keep western

Oregon out of it, and require a permit to meet the current rules before it gets any extension.

Thank you for asking the public before you decide.

Sincerely,

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Issues for the record

Rogue Advocates submits this comment under ORS 183.390 and OAR 137-001-0070 and requests that the agency deny the petition in writing; in the alternative, Rogue Advocates requests that any decision expressly address each factor in ORS 183.390(3), including factor (b), the public comments received, and this comment. (1) Extending the life of unbuilt photovoltaic permits on agricultural land to as much as twelve years, with the first two extensions granted on written request alone, conflicts with Statewide Planning Goal 3, OAR 660-015-0000(3), which directs that agricultural lands "shall be preserved and maintained for farm use," and with the agricultural land use policy of ORS 215.243(1)-(2). (2) The existing expiration framework of OAR 660-033-0140(1), (2) and (4) already governs approvals under OAR 660-033-0130(38); there is no ambiguity requiring rulemaking, and the proposed OAR 660-033-0140(7) would remove, for at least two extensions, the existing condition in OAR 660-033-0140(4) that "applicable criteria for the decision have not changed." (3) Relocating the solar extension provisions into OAR 660-033-0140 would subject every such extension to OAR 660-033-0140(3), making each an administrative decision not subject to appeal as a land use decision. (4) The proposed "third and final" extension in OAR 660-033-0140(7)(b) is internally inconsistent with the retained OAR 660-033-0140(4), which the petition does not make inapplicable to solar facilities and which could be read to allow further open-ended one-year extensions. (5) The Legislature's framework for long-lived dwelling permits on farm and forest land, ORS 215.417(2)(b)-(c), conditions additional extensions on the absence of intervening amendments to applicable statutes, rules, or land use regulations; the petition contains no comparable condition for its first two extensions. (6) The six-year term in OAR 660-033-0130(44)(j)-(k) and OAR 660-023-0195(10) was adopted under ORS 197.040 to implement the Eastern Oregon solar siting directive of Oregon Laws 2023, chapter 442 (HB 3409), as part of a pathway that also requires agricultural mitigation (OAR 660-033-0130(44)(e)(C); OAR 660-023-0195(5)) and community benefits (OAR 660-033-0130(44)(e)(D); OAR 660-023-0195(7)); extending the term alone to OAR 660-033-0130(38) lands lacks a stated statutory basis under ORS 183.390(3)(f) and disregards the Goal 3 distinction between western Oregon agricultural land (predominantly Class I-IV soils) and eastern Oregon agricultural land (Class I-VI). (7) OAR 660-023-0195(12) requires a report on rule effectiveness on or before July 1, 2027, and the Department's May 30, 2025 response to comments (LCDC June 26-27, 2025, Agenda Item 4, Attachment I, section 5.3.4) identified permit duration as "a candidate for additional study"; statewide extension before that report is premature under ORS 183.390(3)(a) and (e). (8) The petition does not state the propositions of law to be asserted, identify other known interested persons, or address continued need, overlap, or changed conditions as OAR 137-001-0070(1)-(2) requires. Rogue Advocates requests to be placed on the interested-persons and notice list for this petition and for any resulting rulemaking under ORS 183.335(8), asks that this comment be included in the record

transmitted to the Commission, asks to receive a copy of the agency's written disposition under ORS 183.390(1), and reserves all issues for any subsequent rulemaking and for review under ORS 183.400.