

# **EASTERN OREGON SOLAR SITING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #7**



**TO:** Solar Siting Rulemaking Advisory Committee Members  
**FROM:** Adam Tate, Renewable Energy Planner  
**SUBJECT:** Rulemaking Advisory Committee (RAC) Meeting Packet #7

---

Dear Solar Siting Rulemaking Advisory Committee Members,

Thank you for bringing your diverse experience and expertise to this long and complicated rulemaking process, we really appreciate the time and energy you have brought to it. We are now coming onto the final stretch and our focus shifts to our final, all-virtual RAC meeting.

The meeting itself will be split into two half-day sessions, the first of which will be on Tuesday, November 5<sup>th</sup> from 9:00 am to 1:00 pm PT. The second half-day session will be on Wednesday, November 13<sup>th</sup> from 9:00 am to 1:00 pm PT. This final meeting will feature updated draft rules for divisions 4, 6, 23, and 33 based on feedback from the last RAC meeting on October 1<sup>st</sup>, as well as conversations and TAC meetings we have had since then.

There is also an updated RAC member survey at the link below. Please fill that out by the close of business day on Friday, November 1<sup>st</sup> if possible. This will help inform DLCD and Kearns & West ahead of the meeting on November 5<sup>th</sup> and help us make our final preparations.

[DLCD Solar Siting RAC Language Survey](#)

As a reminder, these two final, half-day meetings will be like our last meeting on October 1<sup>st</sup> and be held virtually over Zoom for all participants.

**RAC Meeting Packet Contents:**

1. Cover Memo
2. Agenda for both half-day meetings
3. Summary from sixth RAC Meeting
4. Rule Language Package

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

<https://kearnswest.zoom.us/j/81870946308?pwd=jJl1mKU6KwyblZ1RrZvGaWydU90>

Solar RAC Meeting #7

LRR.1

Meeting ID: 818 7094 6308

Passcode: 538528

And this Zoom link for the second meeting:

<https://kearnswest.zoom.us/j/85617117248?pwd=jm3l8eZudXCvV9PAoRkMrBbvSkji3.1>

Meeting ID: 856 1711 7248

Passcode: 995082

Casaria Taylor will be providing support for the Zoom meeting.  
[Casaria.taylor@dlcd.oregon.gov](mailto:Casaria.taylor@dlcd.oregon.gov) 971-600-7699.

Members of the public can livestream the meeting on the DLCD YouTube Channel  
[Oregon DLCD - YouTube](#)

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

Thank you,

**Adam Tate**

Renewable Energy  
Planner

Pronouns: He/His

Oregon Department of Land Conservation and  
Development

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

[adam.tate@dlcd.oregon.gov](mailto:adam.tate@dlcd.oregon.gov) | [www.oregon.gov/LCD](http://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](mailto:jon.jinings@dlcd.oregon.gov) | [www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## AGENDAS

### Oregon Department of Land Conservation and Development (DLCD) - Solar Siting Rules Advisory Committee (RAC) Meeting (Part 1 and 2)

#### TUESDAY, NOVEMBER 5, 2024, SOLAR RAC MEETING AGENDA

##### Date and Time

November 5, 2024, from 9:00 am – 1:00 pm PT

- Part 1 of Meeting #7
- 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

- Focus on language sections that contain trade-offs and aim to resolve.
- Vote on language sections that can moved forward.
- Note other considerations for the Land Conservation and Development Commission to consider in the report.

DLCD will be using a circular agenda for Parts 1 and 2, so no times are listed per agenda item. The group will take the time needed to meet the objectives of each item, while managing a firm start and end time.

##### Agenda

- Roll call
- Review survey to inform prioritization of subsection discussions
- Vote to move forward items with a score of 3 or higher
- Discuss: (subject to change following survey review):
  - Division 23, Subsections 6 and 7
  - Division 23, Subsections 11 and 12
  - Division 23, Subsections 13 and 14
  - Division 33
  - Division 4
  - Division 6
- Closing and next steps
  - Note other considerations for the Land Conservation and Development Commission to consider in the report.



## **WEDNESDAY, NOVEMBER 13, 2024, SOLAR RAC MEETING AGENDA**

### **Date and Time**

November 13, 2024, from 9:00 am – 1:00 pm PT

- Part 2 of Meeting #7
- The meeting will be held virtually via Zoom.
- Members of the public can livestream the meeting at <https://www.youtube.com/@OregonDLCD>.

### **Desired Outcomes**

- Vote on final rules package.
- Note other considerations for the Land Conservation and Development Commission to consider in the report.

### **Agenda**

- Roll call
- Resolution of any remaining items from part 1.
- Note other considerations for the Land Conservation and Development Commission to consider in the report.
- Vote on final rules package.
- Closing and next steps

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

Oct 1, 2024, RAC Meeting #6

**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:**

- Travis Sellers, Pendleton Building and Construction Trades Council
- April Snell, Oregon Water Resources Congress
- Thad Ekin, Oregon Wheat Growers League
- Andrew Mulkey, 1000 Friends of Oregon
- Mike W. McArthur, Community Renewable Energy Association
- Greg Corbin, Green Diamond Resource Company
- Michael Eng, Lostine Fire Wise
- Max Yoklic, New Sun Energy
- Marc Hudson, Oregon Agricultural Trust
- Andrea Kreiner, Oregon Association of Conservation Districts
- Mike Totey, Oregon Hunters Association
- Damien Hall, Oregon Solar+Storage Industries Association
- Emily Griffith, Renewable Northwest
- Jack Southworth, Oregon Cattlemen's Association
- April Snell, Oregon Water Resource Congress
- Laura Tabor, The Nature Conservancy
- Lauren Poor, Oregon Farm Bureau
- Ken Yates, Oregon Water Resource Congress
- Kimberly Peacher, Navy
- Dan Ozrech, Oregon Clean Power
- Anahi Segovia Rodriguez, Verde

### **Ex-Officio Attendees:**

- Dan Hubner, Oregon Department of Forestry
- Elissa Bullion, Legislative Commission on Indian Services
- Carey Miller, Confederated Tribes of the Umatilla Indian Reservation
- Randall Bentz, Oregon Military Department
- Amber McKernan, Oregon Department of State Lands
- Jeremy Thompson, Oregon Department of Fish and Wildlife

### **DLCD Staff Attendees:**

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

- Dawn Marie Hert, Oregon Department of Land Conservation and Development (DLCD)
- Gordon Howard, Oregon Department of Land Conservation and Development (DLCD)
- Jon Jinings, Oregon Department of Land Conservation and Development (DLCD)
- Adam Tate, Oregon Department of Land Conservation and Development (DLCD)
- Casaria Taylor, Oregon Department of Land Conservation and Development (DLCD)

## 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 and asked if anything was missing. RAC members shared the following:

- Requests for more time to discuss Division 33 and changes proposed by DLCD.
- Request to discuss intersecting language across multiple DLCD RACs.
- Request to hear report outs from other DLCD RACs.

DLCD and Jamie adjusted the agenda to allow for more time to discuss Division 33.

## Impact Statements Review

Jon Jinings, DLCD, provided an initial overview of the draft impact statement document and work to date. He discussed working with the consultant Johnson Economics and reviewed the findings with the RAC:

- Financial Impact Statement: The economist looked at the fiscal impact on small and large businesses, local government costs, state agency costs, and the public. The findings show an overall limited financial impact, with costs being reasonable, acceptable, and worth the trade-off.
- Housing Impact Statement: The rule could have a modest impact on certain sizes of parcels in communities proximate to a new facility and increase demand for workforce housing during the time of construction. The inclusion of workforce housing in recognized requirements could help mitigate the impact on communities.
- Racial Equity Statement: The anticipated benefits and costs associated with the new rules are not expected to have an impact on disparities between racial groups. Federally recognized tribes would retain protection for historical, cultural, or archeological resources through Goal 5, as well as the new alternative process. At a minimum, the new rule would maintain the status quo on racial equity, with the potential for advancements through improved economic conditions.

Overall, the RAC learned there has been a determination that there would be no undesirable consequences.

Jon prompted the RAC to review and share feedback with DLCD on this document and made clear there would be an opportunity for additional input. Jon shared that DLCD will need to file statements with the Oregon Secretary of State's Office prior to the December hearing date.

## Survey Outcomes Review

Adam Tate, DLCD, provided an overview of the County Survey results and the RAC Survey results. The County Survey results reflected responses from the county planning directors in Eastern

Oregon. Most counties expressed interest in solar siting, and all were aware of the work underway in this RAC. Some Counties expressed interest in receiving technical assistance from DLCD to implement solar siting. The RAC Survey received responses from nine members and included suggested language changes and scale rankings on draft language support.

Jamie facilitated questions and answers from RAC members.

- **RAC Member Question:** Can you share the survey again? I have concerns about the representative nature of the survey since only nine individuals responded.
  - **DLCD response:** We can discuss next steps for an additional survey.
- **RAC Member Question:** How is DLCD updating the legislature on this process and keeping them up to date?
  - **DLCD response:** There has been legislator engagement throughout this process, with several elected officials joining the tours. Our legislative staff are not here today, but we can follow up with more information.

### Division 23 – Opting In, Subsection 14

Jon reviewed Division 23, subsection (14). Jamie facilitated a conversation among RAC members. Key themes of the RAC’s discussion include:

- **Safe Harbor Paths:** RAC members reflected on the importance of a safe harbor path in keeping County administrative costs low and maintain County control. Both RAC members and DLCD identified safe harbors within Division 23 as written. Some RAC members were concerned with leaving discretion up to the counties, as it could allow the county to ignore or deprioritize PAPA (Post Acknowledgement Plan Amendments) applications.
- **Opt-In or Opt-Out for Counties:** RAC members reflected concerns about the administrative capacity and financial burden of mandatory opt-in rules. RAC members expressed wanting to better understand the administrative burdens and limitations identified by the counties. RAC members also agreed that the scheduled PAPA review time should be shorter. As a next step, DLCD will follow up with counties to check-in on review times and their thoughts on the proposed opt-in/opt-out processes. DLCD will report their findings to the RAC.

### Division 23 - Mitigation, Subsections 11 & 12

Jon reviewed Division 23, subsections (11) – (12). Marc Hudson, Oregon Agricultural Trust, shared a draft agricultural mitigation calculator and used a sample site to show how it could work. Jamie facilitated a conversation among RAC members. Key themes of the RAC’s discussion include:

- **Agricultural Mitigation Calculator:** Members of the RAC had questions about the length of mitigation periods, how community benefits were valued, and if the RAC could write standardized rates into the rules. Marc provided a recommendation that the rule should direct county tax assessors to set rates in compliance with their methods, and/or use this calculator to assess dollar per acre rates. Members of the RAC agreed a tool like this calculator is worth pursuing and recommended reviewing agricultural mitigation procedures across RACs. DLCD suggested the RAC could choose to attach this calculator to the rule, individually list the factors used in the calculator in the rule or post the calculator to a bulletin. DLCD and the Mitigation TAC agreed to discuss the recommended approach for using the calculator.

- **Forest Land:** The RAC discussed forest productivity numbers and emphasized the importance of long-term benefits to communities and planning systems. Specifically, a RAC member suggested that if a potential site was going to take forest land out of production, there needs to be recognition or commitment that there will be long term benefits to the liability of that forest land. Some RAC members suggested aligning 12(c)(A) with class productivity numbers and the Western Department of Revenue. RAC members expressed concerns about the language “no net loss”, especially around cultural resources. DLCD shared they will be meeting with tribal nations and the Cultural TAC in October.

## Division 23 – Program to Achieve the Goal, Subsection 13

Jon reviewed Division 23, subsection (13). Jamie facilitated a conversation among RAC members.

Key themes of the RAC’s discussion include:

- **General Language:** RAC members suggested changing “project budget” to “project expenditure”. RAC members also suggested clarifying the roles of developers and counties when using a calculator. They also suggested including contingency thresholds.
- **Microgrids:** RAC members noted that in the Madras meeting, it was shared that microgrids are a good way to provide community benefits, improve timelines for implementation, and increase buy-in from communities due to the possibility of lowered utility rates. RAC members suggested adding microgrids as a benefit.

## Division 23 – Determination of Significance, Subsections 6 & 7

Jon reviewed Division 23, subsections (6) and (7). Jamie facilitated a conversation among RAC members. Key themes of the RAC’s discussion include:

- **Site Characteristics:** RAC members recommended the counties should have a say in siting and defining areas of least agricultural conflict. Some RAC members proposed replacing quantitative formulas with considerations for distance to connection and proximity to substations. Other RAC members proposed removing the distance to transmission entirely. DLCD staff shared that the legislature expects the distance to transmission to be included in the rules. RAC members discussed considerations and viability between land characteristics and transmission distance, and how technical decisions such as these would be made by developers. Some RAC Members proposed focusing on land suitability to determine transmission line distance regulations. The RAC did not reach a clear set of recommendations on subsection (6) and will need to review this further.
- **Cumulative Impacts:** RAC members indicated subsection (7) addresses concerns about mitigating lands that are not eligible for determination of significance. RAC members asked about considering cumulative impacts for resources, including dryland wheat.
- **Definitions:** RAC members agreed historic, cultural, and archaeological resources definitions must be included in the language, not referred.
- **Forest Land:** RAC members expressed concerns about forest land production numbers. ODF expressed concern about quality forest land being considered for solar siting.
- **Water Rights:** Some RAC members expressed concerns about the lack of consideration for water rights and the complex conflicts that may arise if siting within irrigation district boundaries. RAC members discussed limiting development on irrigated lands, improving language around water rights and clarifying the definition of irrigated lands.

- **Urban Growth Boundaries:** The RAC agreed to remove restrictions to Urban Growth Boundaries and discussed this previously in the Madras meeting. Some RAC members suggested adding rural reserves. It was noted that there are not any rural reserves in eastern Oregon.

### Division 33

Jon reviewed Division 33. Jamie facilitated a conversation among RAC members. Some RAC members called for a cross-reference to rules, rather than making this section longer. One RAC member proposed that cumulative impacts should only be identified when the land is being removed from production. RAC members discussed creating separate criteria for the highly valued arable land in Eastern Oregon. RAC members questioned the two tiers of acreage thresholds, and DLCD explained that this language intends to expand siting opportunities while aligning with existing land use rules. RAC members called for jurisdictional and County support for projects- some called for mapping and study areas that can help inform potential siting.

### Closing and Next Steps

Jamie thanked everyone for their participation, noting that more conversation was needed in several areas of the rule. DLCD will mee with the TACs to develop language for the RAC to consider at their next meeting. Some RAC members asked for an additional meeting, and others asked for an in-person meeting. She shared that DLCD, and the facilitation team will meet to plan the format for the next meeting.

Next steps:

- RAC to review and share feedback on the Fiscal Impact Statements with DLCD.
- DLCD to share more information about legislator engagement.
- DLCD to follow up with counties on the proposed opt-in/opt-out processes.
- DLCD and the Mitigation TAC to discuss the recommended approach for the mitigation calculator.
- DLCD to incorporate feedback and share updated draft rule language along with a survey.
- DLCD to strategize and share the format for the next meeting.

### Meeting Adjourn

The meeting adjourned at 4:05 PT.

**660-004-0022**

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

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule.

Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040. Reasons that may justify the establishment of temporary natural disaster related housing on undeveloped rural lands are provided in OAR 660-014-0090.

\*\*\*\*\*

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

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

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

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

(4) A site justified for a photovoltaic solar power generation facility under OAR 660-004-0022(3) and is also found to satisfy the provisions of OAR 660-004-0020 shall remain zoned for exclusive farm use, forest use or mixed farm and forest; whichever is applicable. A county shall also continue to apply the relevant approval criteria included at OAR 660-033-0130(38), OAR 660-033-0130(45) or OAR 660-006-0025(4)(k).

**660-006-0025**

**Uses Authorized in Forest Zones**

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

\*\*\*\*\*

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

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

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

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

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

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

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

\*\*\*\*\*

\*\*\*\*\*

**660-006-0033**

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) 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.

(5) A permit approved for a photovoltaic solar power generation facility shall be valid for ~~four~~ six years. A county shall grant up to two extensions for a period of up to 24 months each when an applicant makes a written request for an extension of the development approval period that is submitted to the county prior to the expiration of the approval period.

(6) A county may grant a permit described at subsection (s) a third and final extension for a period of up to 24 months if:

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

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

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

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

\*\*\*\*\*

#### **660-006-0050**

Uses Authorized in Agriculture/Forest Zones

(1) Governing bodies may establish agriculture/forest zones in accordance with both Goals 3 and 4, and OAR chapter 660, divisions 6 and 33.

(2) Uses authorized in Exclusive Farm Use Zones in ORS Chapter 215, and in OAR 660-006-0025 and 660-006-0027, subject to the requirements of the applicable section, may be allowed in any agricultural/forest zone. The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a dwelling in an agriculture/forest zone based on the predominant use of the tract on January 1, 1993.

1 (3) Dwellings and related structures authorized under section (2), where the predominant use is  
2 forestry, shall be subject to the requirements of OAR 660-006-0029 and 660-006-0035.

3 (4) The county shall apply either OAR chapter 660, division 6 or 33 standards for siting a  
4 photovoltaic solar power generation facility in an agriculture/forest zone based on the  
5 predominant use of the tract on January 1, 2024.

6

7

Discussion Draft - RAC Meeting #7

**660-023-0190**

**Energy Sources**

(1) For purposes of this rule:

(a) “Energy source” includes naturally occurring locations, accumulations, or deposits of one or more of the following resources used for the generation of energy: natural gas, surface water (i.e., dam sites), geothermal, solar, and wind areas. Energy sources applied for or approved through the Oregon Energy Facility Siting Council (EFSC) or the Federal Energy Regulatory Commission (FERC) shall be deemed significant energy sources for purposes of Goal 5.

(b) “Protect,” for energy sources, means to adopt plan and land use regulations for a significant energy source that limit new conflicting uses within the impact area of the site and authorize the present or future development or use of the energy source at the site.

(2) The provisions of this rule do not apply to photovoltaic solar energy resources in eastern Oregon. Instead, consideration of photovoltaic solar energy resources in eastern Oregon shall be governed by OAR 660-023-0195.

~~(32)~~ In accordance with OAR 660-023-0250(5), local governments shall amend their acknowledged comprehensive plans to address energy sources using the standards and procedures in OAR 660-023-0030 through 660-023-0050. Where EFSC or FERC regulate a local site or an energy facility that relies on a site specific energy source, that source shall be considered a significant energy source under OAR 660-023-0030. Alternatively, local governments may adopt a program to evaluate conflicts and develop a protection program on a case-by-case basis, i.e., upon application to develop an individual energy source, as follows:

(a) For proposals involving energy sources under the jurisdiction of EFSC or FERC, the local government shall comply with Goal 5 by amending its comprehensive plan and land use regulations to implement the EFSC or FERC decision on the proposal as per ORS 469.504; and

(b) For proposals involving energy sources not under the jurisdiction of EFSC or FERC, the local government shall follow the standards and procedures of OAR 660-023-0030 through 660-023-0050.

(3) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

1 **660-023-0195**

2 **Photovoltaic Solar Energy Resources in Eastern Oregon**

3 (1) Introduction and Intent. The requirements of this rule modify, supplement, or supersede the  
4 requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050 as  
5 identified in subsections (5) through (15). Furthermore, this rule is designed to assist local  
6 governments in eastern Oregon to identify opportunities and reduce conflicts for the  
7 development of photovoltaic solar power energy generation facilities and provide appropriate,  
8 responsible levels of regulatory relief for projects that are proposed to be sited in areas  
9 determined to be significant. The provisions included herein are intended to help achieve the  
10 successful development of photovoltaic solar energy generation in eastern Oregon that:

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

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

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

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

19 (a) "Easily available data" means officially recognized inventories, maps, studies, surveys or  
20 other similar sources of data and information, including but not limited to on-line mapping  
21 tools, that are sufficient to identify the general location and relative value of a particular  
22 resource.

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

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

30 ~~(d)~~ "Military Special Use Airspace" is airspace of defined dimensions identified by an area on  
31 the surface of the earth wherein activities must be confined because of their nature, or wherein  
32 limitations may be imposed upon aircraft operations that are not a part of those activities  
33 Limitations may be imposed upon aircraft operations that are not a part of the airspace  
34 activities. Military special use airspace includes any associated underlying surface and  
35 subsurface training areas.

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

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

(ge) “Photovoltaic solar resource areas” are lands typically comprised of multiple ownerships that are particularly well suited for the siting of photovoltaic solar power generation facilities because they have been determined to be significant pursuant to subsection (7) of this rule. Multiple photovoltaic solar energy generation facilities may be located within a photovoltaic solar resource area.

(hf) “Photovoltaic solar resource site” is a property specific location that is particularly well suited for the siting of a photovoltaic solar power generation facility because it has been determined to be significant pursuant to subsection (7) of this rule. Photovoltaic solar resource sites include a single approval for photovoltaic solar energy development residing outside of a photovoltaic solar resource area.

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

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

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

(4) Rather than using the standard process described at subsection (3) above, counties in eastern Oregon may instead choose the following process identified in subsections (5) thru (14) to designate photovoltaic solar resource areas or establish a photovoltaic solar resource site or sites.

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

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

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

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

(c) Are located:

(A) Wholly or partially ~~Ww~~ within 2 miles of a Transmission Line with a rating of up to 69 KV; or

(B) Wholly or partially ~~Ww~~ within 5 miles of a Transmission Line with a rating between 70 KV and 115 KV; or

(C) Wholly or partially ~~Ww~~ within 10 miles of a Transmission Line with a rating over 115 KV.

(D) To provide power to a microgrid.

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

(a) Areas including the following characteristics are eligible for a determination of significance without the need for mitigation.

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

(B) Agricultural lands protected under Goal 3 that are comprised of soils with an agricultural capability class VI and do not have the ability to produce 300 pounds of forage per acre per year;

(C) Forest lands protected under Goal 4 ~~that are~~ comprised of soils with an average capability e of producing 0 to ~~25~~0 cubic feet per acre per year of wood fiber;

(E) Lands of poor to no value as wildlife habitat, characterized by ODFW mitigation policy as Category 5 or 6, or other areas with little or no restoration potential. In the presence of easily obtainable data, the exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW. In the absence of easily obtainable data, a determination regarding wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW.

(F) Sites that do not include Historic, Cultural or Archaeological Resources. In the absence of easily obtainable data, a determination regarding the location of historic, cultural or archaeological resources may be deferred to a property specific assessment but must be done in consultation with the Oregon State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may be affected by the application.

(b) The following areas are eligible for a determination of significance when subject to the mitigation hierarchy described at subsection (11) and, if applicable, the compensatory mitigation requirements of subsection (12) of this rule.

~~(A) Wildlife habitat identified by ODFW as Category 2 that is not otherwise limited by subsection (7)(c). Typical Category 2 wildlife habitat includes, but is not limited to, Eastern Oregon Deer Winter Range, Eastern Oregon Elk Winter Range, Big Horn Sheep Habitat, and Pronghorn Essential and Limited Habitat as identified by the Oregon Renewable Energy Siting Assessment (ORESAs) on-line mapping and reporting tool. The exact location of wildlife habitat identified by this subsection may be refined during consideration of a specific project but must be done in consultation with ODFW. In the absence of easily obtainable data, a determination regarding wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW;~~

(B) Wildlife habitat identified by ODFW as Category 2 that is not otherwise limited by subsection (7)(c). In the presence of easily obtainable data, the exact location of Category 2 wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW. In the absence of easily obtainable data, a determination regarding Category 2 wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW.

~~(C) Wildlife habitat identified by ODFW as Category 3 or 4, including but not limited to, big game summer range. In the presence of easily obtainable data, the exact location of Category 2 wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW. In the absence of easily obtainable data, a determination regarding wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW;~~

(DE) Agricultural lands protected under Goal 3 that are comprised of soils with an agricultural capability class VI and have the ability to produce greater than 300 pounds of forage per acre per year 640 acres;

(ED) Agricultural lands protected under Goal 3 that are comprised of soils with an agricultural capability class III, IV, or V, without an appurtenant water right on and that were not receiving water for purposes of irrigation on or after January 1, 2024.

(FE) Forest lands protected under Goal 4 comprised of soils with an average capability of producing from 251-85 cubic feet wood fiber/acre/year.

(F) Sites that are less than 50 percent comprised of Historic, Cultural or Archaeological Resources. In the absence of easily obtainable data, a determination regarding the location of historic, cultural or archaeological resources may be deferred to a property specific assessment but must be done in consultation with the Oregon State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may be affected by the application.

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

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

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

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

(D) Wildlife habitat identified by ODFW as Category 1. In the presence of easily obtainable data, the exact location of Category 1 wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW. In the absence of easily obtainable data, a determination regarding Category 2 wildlife habitat under this subsection may be deferred to a property specific assessment but must be done in consultation with ODFW. The exact location of wildlife habitat may be refined during consideration of a specific project but must be done in consultation with ODFW.

(E) High-Value Farmland Soils as described at OAR 660-033-0020(8)(a) - unless such soils make up no more than five percent of a proposed Photovoltaic Solar Site or Photovoltaic Solar Area, and are present in an irregular configuration or configurations that prevents them from being independently managed for farm use.

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

(G) Agricultural lands protected under Goal 3 with an appurtenant water right that were receiving water for purposes of irrigation on January 1, 2024. The limitations of this subsection need not apply when the subject property is within an area of declared drought, regulatory drought, critical groundwater designation or other regulatory circumstance that may limit access to water for irrigation, and the appurtenant water right has been transferred to another portion of the subject property, tract or another property and maintained for agricultural purposes with the potential for equal or greater productivity and high resiliency.

(H) Forest lands protected under Goal 4 comprised of soils with an average capability of producing greater than 85 cubic feet wood fiber/acre/year.

(I) Sites that are at least 50 percent comprised of Historic, Cultural or Archaeological Resources. In the absence of easily obtainable data, a determination regarding the location of historic, cultural or archaeological resources may be deferred to a property specific assessment but must be done in consultation with the Oregon State Historic Preservation Office (SHPO) and any federally recognized Indian Tribes that may be affected by the application.

(J) Lands included within Urban Reserve Areas acknowledged pursuant to OAR chapter 660, division 21; or

(K) Lands within one mile of the urban growth boundary of a city with an urban growth boundary population of 2,500 ~~10,000~~ or greater; and

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

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

(9) Economic, Social, Environmental and Energy (ESEE) consequences. A local government may choose not to limit or prohibit conflicting uses on nearby or surrounding lands without further analysis. In the alternative, a local government may choose to conduct a more detailed analysis that could lead to a decision to limit or prohibit conflicting uses within a photovoltaic solar resource area for photovoltaic solar power generation facilities or on lands nearby a photovoltaic solar resource site.

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

(11) Mitigation hierarchy is an approach used by decision makers to consider development proposals and is comprised of a three-step process:

(a) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain development action or parts of that action. For purposes of this rule, avoidance is accomplished by implementing the eligibility limitations identified at subsection (7)(c).

(b) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the degree or magnitude of the development action and its implementation.

(c) "Compensatory mitigation" is the third step in the mitigation hierarchy and means the replacement or enhancement of the impacted resource in greater amounts than predicted to be impacted by a development.

~~(12) The necessary compensatory mitigation requirements are as follows: of this subsection shall assure that the approved measures are of suitable durability and proximity, and result in no net loss of the resource.~~

(a) Necessary compensatory mitigation for wildlife habitat will follow the requirements of the ODFW mitigation strategy and any applicable federal requirements.

~~(b) Necessary compensatory mitigation for agricultural lands protected under Goal 3 will include one of the following options: A county may approve a method, or methods proposed by the applicant when substantial evidence in the record demonstrates that the proposed compensatory mitigation will:~~

~~(A) Be suitably durable to last until the impact has been removed or no longer exists.~~

~~(B) Be suitably proximate by being located in the same county or an adjacent county or counties as the proposed impact.~~

~~(C) Result in no net loss of the resource; and~~

~~(D) Provide an uplift to the relevant agricultural economy.~~

~~(c) In addition to the opportunity provided at subsection (12)(b), necessary compensatory mitigation for agricultural lands protected under Goal 3 may be accomplished by use of one of the following options, which will be considered in all instances to comply with the requirements of subsection (12) and this rule:~~

~~(A) Placement of a conservation easement or similar instrument on other agricultural lands protected under Goal 3 located within the county in the following amounts to be in place until the project site is restored to its original condition:~~

~~(i) Lands comprised of Class VI Soils a conservation ratio of 1:1.~~

~~(ii) Lands comprised of Class V Soils a conservation ratio of 1:1.25.~~

~~(iii) Lands comprised of Class IV Soils a conservation ratio of 1:1.5.~~

~~(iv) Lands comprised of Class III Soils a conservation ratio of 1:2.~~

~~(v) Lands comprised of high-value farmland soils included in a project pursuant to subsection (7)(c)(E) a conservation ratio of 1:3.~~

~~(vi) Lands with a lower agricultural capability class may be used as compensatory mitigation for lands with higher agricultural capability class. For each descending numeric value in soil class the ratio assigned to the soils being mitigated shall be doubled. For example, three acres of class V soils may be used as compensatory mitigation for one acre of class IV soil while 16 acres of class VI soil may be used as compensatory mitigation for one acre of class III soil.~~

~~(AB)~~ Returning an equivalent amount of land to the type and level of farm use as the lands to be developed with a photovoltaic solar power generation facility.

~~(BE)~~ Establishing the project subject to an approved Agrivoltaics Development Plan.

~~(CD)~~ A one-time compensatory mitigation payment established pursuant to the calculator included as Attachment A. The identified funds may be received by a committee established by the county, a Community Benefits Organization operating in the county, a local Soil and Water Conservation District, or similar entity capable of utilizing the funds to provide uplift opportunities for the applicable agricultural sector.

(d) Necessary compensatory mitigation for forest lands protected under Goal 4. A county may approve a method or methods proposed by the applicant when substantial evidence in the record demonstrates that the proposed compensatory mitigation will:

(A) Be durable to last until the impact has been removed or no longer exists.

(B) Be proximate by being located in the same county or an adjacent county or counties as the proposed impact.

(C) Result in no net loss of the resource; and

(D) Provide an uplift to the relevant forest economy; or

(E) Utilize one of the provisions included in subsection (12)(e), below.

(e) Necessary compensatory mitigation for forest lands protected under Goal 4 may be accomplished by use of one of the following options, which will be considered in all instances to comply with the requirements of subsection (12) and this rule:

(ee) In addition to the opportunity provided at subsection (12)(d), necessary compensatory mitigation for forest lands protected under Goal 4 will include one of the following options:

may be accomplished by use of one of the following options, which will be considered in all instances to comply with the requirements of subsection (12) and this rule:

(A) Placement of a conservation easement or similar instrument on other forest lands protected under Goal 4 with a capability of producing from ~~25~~1-85 cubic feet wood fiber/acre/year located within the county with a conservation ratio of 1:1.5.

(B) A one-time compensatory mitigation payment in the amount of \$~~2~~100 per acre. The identified funds may be received by a committee established by the county, a Community Benefits Organization operating in the county, a local Soil and Water Conservation District, Forest Collaborative or similar entity capable of utilizing the funds to assist in reforestation activities, implementing community wildfire protection plans, or otherwise providing uplift to the local forest sector.

(d) Necessary compensatory mitigation for Historic, Cultural or Archaeological Resources will be provide a monetary amount sufficient to off-set the loss. The compensatory mitigation may be in the form of a monetary payment or other method(s). amount shall be approved by the county and County approval will be based on coordination with representatives from the entities for which the resources are traditionally important, including but not limited to Federally recognized Indian tribes, as well as the county, the applicant and applicable state and federal agencies.

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

(a) An application for a photovoltaic solar power energy generation facility shall identify whether the proposed site is within a Military Special Use Airspace or a Military Training Route as shown by the ORESA mapping tool. Any application for a proposed site 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 identified in the glint and glare analysis will be developed in coordination with the United States Department of Defense, described in the application materials, and attached as conditions of approval to the local decision.

(b) Community Needs and Benefits. All applications for a photovoltaic solar power energy generation facility shall identify how the project will contribute to addressing community needs and benefits. ~~by identifying how the project will make Identified~~ contributions, financial and otherwise, will be in addition to property tax revenues or payments in lieu of taxes. that serve to help improve a community's social health, well being, and functioning. The contributions will be in addition to property tax revenues and shall be both meaningful and reasonable. A

1 county may approve a proposal method or methods proposed submitted by the applicant when  
2 substantial evidence in the record demonstrates: ~~that the criteria of this subsection has been~~  
3 ~~satisfied. In the alternative, a county may rely on the following items, which will be considered~~  
4 ~~in all instances to comply with the criteria of this subsection:~~

5 (A) The proposed contribution or contributions are both meaningful and reasonable; and

6 (B) The proposed contribution or contributions will serve to help improve a community's social  
7 health, well-being, and functioning. For purposes of this subsection, a community may be  
8 considered to be an incorporated city, an unincorporated community as defined at OAR 660-  
9 022-0010, or a rural or other unincorporated area delineated by the application.

10 (c) In addition to the opportunity provided at subsection (13)(b), the requirement to address  
11 community needs and benefits may be accomplished by use of one of the following options,  
12 which will be considered in all instances to comply with the requirements of subsection (13)  
13 and this rule:

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

16 (B) The applicant commits to contributing a one-time payment ~~to a local fund or funding~~  
17 ~~mechanism~~ in an amount ~~that is reasonably estimated to represent~~ing 0.00125 percent of the  
18 project budget. The payment may be received by a committee established by the county, a  
19 Community Benefits Organization operating in the county, a local Economic Development  
20 District, a local Housing Council, or similar entity capable of utilizing the funds to provide uplift  
21 opportunities for the community or communities that stand to have the most direct  
22 relationship with the subject project. The project budget shall be calculated based on the most  
23 recent data available from the National Renewable Energy Laboratory (NREL) and need not  
24 include the costs of land. If a range of cost estimates are provided by NREL the lowest price  
25 point shall be used. The necessary ~~payment~~contribution shall be made prior to the acquisition  
26 of building permits; or

27 (C) The applicant commits to contributing a one-time payment ~~es to a local fund or funding~~  
28 ~~mechanism~~ in an amount ~~that is reasonably estimated to represent~~ing 250 percent of the  
29 difference in cost between going through the relevant local county process and the cost of  
30 savings in time value and direct costs of not going through the state siting process. The  
31 payment may be received by a committee established by the county, a Community Benefits  
32 Organization operating in the county, a local Economic Development District, a local Housing  
33 Council, or similar entity capable of utilizing the funds to provide uplift opportunities for the  
34 community or communities that stand to have the most direct relationship with the subject  
35 project. For purposes of this subsection, the cost of going through the state siting process is  
36 considered to be \$750,000 (2024 dollars). The cost of going through the relevant local county

1 process is generally considered to be \$100,000 (2024 dollars) but may also be determined by  
2 calculating the county application fee and the cost to develop and support the application  
3 through the approval process. -The necessary payment contribution shall be made prior to the  
4 county granting final approval; or

5 (D) The county has established a Strategic Investment Program (SIP) or Payment in Lieu of Taxes  
6 (PILOT) strategy adopted by local ordinance or resolution that dedicates one percent of county  
7 revenues generated in lieu of property taxes to be provided to households within one-mile of  
8 the exterior boundary development site and the applicant commits to engaging in a SIP or  
9 PILOT program, whichever is applicable that guarantees funds will be available for, and  
10 provided to the applicable households; or

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

14 (F) Microgrid opportunity.

15 (d) The project will be connected to the transmission line it is proximate to

16 ~~(ee)~~ The applicant has contacted and sought comments from the entities listed at paragraph  
17 ~~(13)(e)~~ (14(d)) at least 90 days prior to submitting a land use application.

18 ~~(fe)~~ The complete application accepted by the county provides a demonstrationes that the  
19 construction and operation of the renewable energy facility, taking into account mitigation, will  
20 not result in significant adverse impacts to historic, cultural and archaeological resources that  
21 are:

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

24 (B) Considered eligible for listing National Register of Historic Places under the National Historic  
25 Preservation Act (P.L. 89-665, 54 U.S.C. 300101 et seq) by SHPO when on nontribal lands or the  
26 Tribal Historic Preservation Officer when on tribal land. (P.L. 89-665, 54 U.S.C. 300101 et seq.);

27 (CB) Inventoried in a local comprehensive plan; or

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

30 (E) Evaluated as a burial site as defined in ORS 97.745 the Burial Protection Act.

31 (ge) All mitigation required by subsections (11) and (12), including mitigation for Historic,  
32 Cultural or Archaeological Resources, is identified and attached as a condition of approval.

(h) The applicable provisions of OAR 660-033-0130(4538), and OAR 660-006-0025(k) and OAR 660-006-0033 have been satisfied.

(ig) Any applicable local provisions have been satisfied.

(14) Voluntary Implementation. Local governments may implement this rule for the purposes of considering photovoltaic resource sites as defined at subsection (2)(f), to establish photovoltaic solar resource areas as defined at subsection (2)(e), or both.

(a) Photovoltaic solar sites are established to be established through direct application of this rule. Applications for photovoltaic solar sites are to be processed as individual land use applications and reviewed against the provisions of subsections (6), (7), and (13) as well as all other applicable provisions of law without the need for an individual Post Acknowledgement Plan Amendment.

(A) To implement this rule for the purposes of considering photovoltaic solar resource sites a county shall follow the Post-Acknowledgment Plan Amendment (PAPA) process pursuant to ORS 197.610 and provide notice as described at subsection (14)(c).

(B) The PAPA process may be initiated by the county or by any other applicant.

(b) Photovoltaic solar resource areas are established through the adoption of a local program that includes an overlay zone and other ordinance provisions found to be consistent with the provisions of this rule that set forth applicable review procedures and criteria. A county may rely on project specific assessments when information regarding features and resource categories are readily available.

(c) To implement this rule for the purposes of establishing photovoltaic solar resource areas a county shall follow the PAPA process pursuant to ORS 197.610 and provide notice as described at subsection (14)(d). The adopted ordinance shall specify if the local government has elected to exercise any or all of the discretions offered with regard to excluded areas pursuant to subsection (7)(c)(L), conflicting uses, ESEE analysis or other items.

(A) The post-acknowledgement plan amendment process may be initiated by the county or by any other applicant.

(B) Prior to conducting a hearing to consider an ordinance establishing a 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 general vicinity 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 address. The meetings shall include a quorum of the county planning commission and at least one member of the county elected officials.

(C) Prior to making a decision regarding an ordinance, a local government will hold two more public hearings before the county planning commission and one or more public hearings before the county elected officials

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

(A) The State Department of Fish and Wildlife;

(B) The State Department of Energy;

(C) The State Historic Preservation Officer;

(D) The Oregon Department of Agriculture.

(E) The Oregon Department of Forestry.

(F) The Oregon Department of Aviation;

(G) The United States Department of Defense; ~~and~~

(H) The Oregon Legislative Commission on Indian Services (LCIS); and

~~(I) 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. A county satisfies the notice requirements of this rule when notice is sent to all tribes with an ancestral connection to the land within the jurisdiction of the county.

(15) Scheduled Review. On or before January 1, 2027 ~~June 30, 2030~~ the department will provide a report to the Land Conservation and Development Commission that:

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

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

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

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

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

5

Discussion Draft - RAC Meeting #7

**OAR 660-033-0130(45)**

(45)(a) For the purposes of siting a photovoltaic solar power generation facility in Eastern Oregon:

(A) “Agrivoltaics development” means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

(B) “Agrivoltaics development plan” is a plan established for a photovoltaic solar power generation facility pursuant to an agrivoltaics development program adopted by a county in Eastern Oregon.

(C) “Agrivoltaics development program” means specific land use regulations adopted by a county in Eastern Oregon that authorize agrivoltaics development to have a larger project size than would otherwise be allowed under OAR 660-033-0130(38).

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

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

(F) “Community solar project” has the meaning given that term in ORS 757.386.

~~(G)~~ “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.

(H) “Microgrid” means a self-sufficient energy system that serves a discrete geographic footprint, such as a college campus, hospital complex, business center, neighborhood, or community.

~~(I)~~ “Nonarable land” means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

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

(K) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances, including but not limited to on-site and off-site facilities for temporary workforce housing for workers constructing a photovoltaic solar power generation facility. 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. 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 any effect on the original approval of the project. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

(b) Unless otherwise indicated, the following standards must be satisfied in order to approve a photovoltaic solar power generation facility in eastern Oregon.

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on 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;

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

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

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

18 (E) The presence of a photovoltaic solar power generation facility will not result in  
19 unnecessary risks to soil health. This provision may be satisfied by the submittal and  
20 county approval of a vegetation management plan prepared by an adequately qualified  
21 individual, showing how a healthy vegetative cover will be established and maintained  
22 and how a bare earth situation will not occur. The approved plan shall be attached to the  
23 decision as a condition of approval;

24 (F) The photovoltaic solar power generation facility will be designed, constructed and  
25 managed in a way that will promote the prevention and mitigate the risk of wildfire. This  
26 provision may be satisfied by the submittal and county approval of a wildfire plan  
27 prepared by an adequately qualified individual that is consistent with the provisions  
28 identified at OAR 660-006-0029(1)(d) and OAR 660-006-0035. The approved plan shall  
29 be attached to the decision as a condition of approval;

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

(c) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph (d)(E) are satisfied; or

(B) The county approves an agrivoltaics development plan consistent with the provisions of subsections (p) and (q) ~~and (r)~~; or

(C) The subject property has been determined to be a significant photovoltaic solar resource pursuant to OAR 660-023-0195(7) and is subject to the provisions of subsection (i) or (j), whichever is applicable.

(d) In addition to the standards and requirements identified at subsections (b) and (c), the governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

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

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

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

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

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

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

(i) If fewer than 160 ~~84~~ acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 160 ~~84~~ acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not

1 materially alter the stability of the overall land use pattern of the area. The stability of the  
2 land use pattern will be materially altered if the overall effect of existing and potential  
3 photovoltaic solar power generation facilities will make it more difficult for the existing  
4 farms and ranches in the area to continue operation due to diminished opportunities to  
5 expand, purchase or lease farmland, acquire water rights, or diminish the number of  
6 tracts or acreage in farm use in a manner that will destabilize the overall character of  
7 the study area.

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

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

12 (ii) Is not at the time of the facility's establishment, and was not at any time during the  
13 20 years immediately preceding the facility's establishment, the place of use of a water  
14 right permit, certificate, decree, transfer order or ground water registration authorizing  
15 the use of water for the purpose of irrigation;

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

17 (iv) Does not exceed the acreage the electric utility reasonably anticipates to be  
18 necessary to achieve the applicable renewable portfolio standard described in ORS  
19 469A.052(3); and

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

21 (e) For arable lands, a photovoltaic solar power generation facility shall not use, occupy,  
22 or cover more than 20 acres unless:

23 (A) The county approves an agrivoltaics development plan consistent with the  
24 provisions of subsections (p) and (q) ~~and (r)~~; or

25 (B) The subject property has been determined to be a significant photovoltaic solar  
26 resource pursuant to OAR 660-023-0195(7) and is subject to the provisions of  
27 subsection (i) or (j), whichever is applicable.

28 (f) In addition to the standards and requirements identified at subsections (b) and (e),  
29 the governing body or its designate must find that the following criteria are satisfied in  
30 order to approve a photovoltaic solar power generation facility on arable land:

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

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

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

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

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

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

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

(i) If fewer than 1,280 ~~400~~ acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 1,280 ~~400~~ acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(g) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres unless:

(A) The county approves an agrivoltaics development plan consistent with the provisions of subsections ~~(q)~~ and (r); or

(B) The subject property has been determined to be a significant photovoltaic solar resource pursuant to OAR 660-023-0195(7) and is subject to the provisions of subsection (i) or (j), whichever is applicable.

(h) In addition to the standards and requirements identified at subsections (b)(D) thru (G) and (g), The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:

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

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

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

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

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

(D) No more than 20 acres of the project will be sited on arable soils;

(E) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

(F) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific

assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

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

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

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

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

(D) A county may determine that ORS 215.296 and OAR 660-033-0130(5) are met when the applicable provisions of OAR 660-033-0130(38)(k)(A) thru (F) are found to be satisfied and any mitigation measures necessary to comply with the provisions of OAR 660-023-0195(12)(b) are required.

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

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

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

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

~~(k) A county may determine that ORS 215.296 and OAR 660-033-0130(5) are met when the applicable provisions of OAR 660-033-0130(45) are found to be satisfied and any compensatory mitigation measures necessary to comply with the provisions of OAR 660-023-0195(12)(b) are required.~~

(~~k~~) A permit approved for a photovoltaic solar power generation facility shall be valid until commencement of construction or for six years, whichever is less. A county may grant up to two extensions for a period of up to 24 months each when an applicant makes a written request for an extension of the development approval period that is submitted to the county prior to the expiration of the approval period.

(~~l~~) A county may grant a permit described in subsection (l) a third and final extension for period of up to 24 months if:

(A) An applicant makes a written request for an extension of the development approval period prior to the expiration of the second extension granted under subsection (f) of this section;

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

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

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

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

(~~o~~) A county may approve agrivoltaics development plans for high-value farmland and arable lands pursuant to an adopted agrivoltaics development program.

(~~p~~) For an agrivoltaics development program, the adopted land use regulations must require sufficient assurances that the farm use element of the agrivoltaics development is established and maintained so long as the photovoltaic solar power generation facility

1 is operational or components of the facility remain on site. An agrivoltaics development  
2 program:

3 (A) For high-value farmland, must require an agrivoltaics development plan to be carried  
4 out in conjunction with a microgrid or community solar project may not allow an  
5 agrivoltaics development plan for any project with a nameplate capacity greater than  
6 four megawatts or 40 acres, whichever is greater and the countywide total of lands  
7 included in approved agrivoltaics development plans does not cumulatively exceed 160  
8 acres of high-value farmland.

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

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

17 (r) A county may approve agrivoltaics development plans for nonarable lands without  
18 adopting an agrivoltaics development program when the applicant demonstrates to the  
19 county's satisfaction that:

20 (A) The project site's carrying capacity for livestock grazing is reasonably expected to  
21 improve due to the presence of vegetation, either retained or established, managed in  
22 combination with photovoltaic solar panels that result in increased moisture retention in  
23 the surrounding soils.

24 (B) The project site is designed to facilitate typical management activities regarding the  
25 moving, gathering and transporting livestock in a pasture setting; and

26 (C) The project site is reasonably expected to be used for livestock grazing over the life  
27 of the project; and

28 (D) The project has a nameplate capacity of 120 megawatts or less.

29  
30 660-033-0145

31 Agriculture/Forest Zones

32 (1) Agriculture/forest zones may be established and uses allowed pursuant to OAR 660-  
33 006-0050;

- 1 (2) Land divisions in agriculture/forest zones may be allowed as provided for under OAR
- 2 660-006-0055; and
- 3 (3) Land may be replanned or rezoned to an agriculture/forest zone pursuant to OAR
- 4 660-006-0057.
- 5 (4) A county shall apply either OAR chapter 660, division 6 or 33 standards for siting a
- 6 photovoltaic solar power generation facility in an agriculture/forest zone based on the
- 7 predominant use of the tract on January 1, 2024.

8

Discussion Draft RAC Meeting #6

### **Example of Possible Tiered Approach – Voluntary and Mandatory.**

(14) ~~Voluntary~~ Implementation. Local governments may implement this rule for the purposes of considering photovoltaic resource sites as defined at subsection (2)(f), to establish photovoltaic solar resource areas as defined at subsection (2)(e), or both.

(a) Photovoltaic solar sites are to be established through direct application of this rule. Applications for photovoltaic solar sites are to be processed as individual land use applications and reviewed against the provisions of subsections (6), (7), and (13) as well as all other applicable provisions of law without the need for an individual Post Acknowledgment Plan Amendment.

(A) ~~In order to~~ ~~to~~ implement this rule ~~prior to January 1, 2027~~, for the purposes of considering photovoltaic solar resource sites a county shall follow the Post-Acknowledgment Plan Amendment (PAPA) process pursuant to ORS 197.610 and provide notice as described at subsection (14)(~~de~~).

(B) The PAPA process may be initiated by the county or by any other applicant.

~~(C) After January 1, 2027, photovoltaic solar sites are to be established through direct application of this rule. Applications for photovoltaic solar sites are to be processed as individual land use applications and reviewed against the provisions of subsections (6), (7), and (13) as well as all other applicable provisions of law without the need for an individual Post Acknowledgment Plan Amendment.~~

~~(D) Counties may choose not to implement this rule for purposes of considering photovoltaic solar resource sites by adopting an ordinance through the typical Post-Acknowledgment Plan Amendment process pursuant to ORS 197.610 either prior to, or after January 1, 2027.~~

(b) Photovoltaic solar resource areas are established through the adoption of a local program that includes an overlay zone and other ordinance provisions found to be consistent with the provisions of this rule that set forth applicable review procedures and criteria. A county may rely on project specific assessments when information regarding features and resource categories are readily available.

(c) To implement this rule for the purposes of establishing photovoltaic solar resource areas a county shall follow the PAPA process pursuant to ORS 197.610 and provide notice as described at subsection (14)(d). The adopted ordinance shall specify if the local government has elected to exercise any or all of the discretions offered with regard to excluded areas pursuant to subsection (7)(c)(L), conflicting uses, ESEE analysis or other items.

**Commented [JJ1]:** This language is intended to preserve the ability for a county to “opt-out”.

**Commented [JJ2]:** I’m not sure how the rule could become mandatory regarding the establishment of “areas”.

### Example of Possible Mandatory Approach

(14) ~~Voluntary~~ Implementation. Local governments may implement this rule for the purposes of considering photovoltaic resources sites as defined at subsection (2)(f), to establish photovoltaic solar resource areas as defined at subsection (2)(e), or both.

(a) Photovoltaic solar sites are established ~~to be established~~ through direct application of this rule. Applications for photovoltaic solar sites are to be processed as individual land use applications and reviewed against the provisions of subsections (6), (7), and (13) as well as all other applicable provisions of law without the need for an individual Post Acknowledgment Plan Amendment.

~~(b) Counties may choose not to implement this rule for purposes of considering photovoltaic solar resource sites by adopting an ordinance through the typical Post-Acknowledgment Plan Amendment process pursuant to ORS 197.610 either prior to, or after the effective date of this rule.~~

~~(A) To implement this rule for the purposes of considering photovoltaic solar resource sites a county shall follow the Post-Acknowledgment Plan Amendment (PAPA) process pursuant to ORS 197.610 and provide notice as described at subsection (14)(c):~~

~~(B) The PAPA process may be initiated by the county or by any other applicant:~~

~~(b) Photovoltaic solar resource areas are established through the adoption of a local program that includes an overlay zone and other ordinance provisions found to be consistent with the provisions of this rule that set forth applicable review procedures and criteria. A county may rely on project specific assessments when information regarding features and resource categories are readily available.~~

(c) To implement this rule for the purposes of establishing photovoltaic solar resource areas a county shall follow the PAPA process pursuant to ORS 197.610 and provide notice as described at subsection (14)(d). The adopted ordinance shall specify if the local government has elected to exercise any or all of the discretions offered with regard to excluded areas pursuant to subsection (7)(c)(L), conflicting uses, ESEE analysis or other items.

\*\*\*\*\*

**Commented [JJ3]:** Under this option, the effective date should be set far enough in advance so that counties wanting to "opt-out" may reasonably do so before the rule becomes directly applicable regarding "sites."

**Commented [JJ4]:** I'm not sure how the rule could become mandatory regarding the establishment of "areas".



| Possible Consideration for Proximity to Substations with Trade-Offs for other Lands (ie. Greater Opportunity on lands closer to some substations in exchange for Less Opportunity on other lands) |                                                                                                                          |                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| None                                                                                                                                                                                              | Rating of 115-138 KV                                                                                                     | Rating of 230 KV and Greater                                                                                                                                           |
| Regular Distance from Transmission Lines per OAR 660-023-0195(6)                                                                                                                                  | Wholly or partially within 1.0 Mile.                                                                                     | Wholly or partially within 2.5 Miles.                                                                                                                                  |
| No HV<br>Class VI-VIII soils<br>No water rights as of 1/1/2024<br>Cumulative impacts test (except for Nonarable Lands).<br>Regular Farm Impacts Test.                                             | No HV<br>Class III-VIII Soils<br>No water right as of 1/1/2024<br>No cumulative impacts test<br>Easier Farm Impacts Test | No HV<br>Class III-VIII Soils<br>Could have water right so long as it is transferred to beneficial ag use.<br>No cumulative impacts test.<br>Easier Farm Impacts Test. |