



MEMORANDUM

DATE: November 5, 2025

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner
Will Groves, Planning Manager

RE: Eastern Oregon Solar Siting Rules / Options for Consideration

Staff is returning to the Board of County Commissioners (Board) to continue the discussion from September 10¹ concerning options for the Eastern Oregon Solar Siting Rules. This memorandum includes a revised interpretation of some of the rules, based on recent discussions with the Department of Land Conservation and Development (DLCD).

I. Background

On June 26, 2025, the Land Conservation and Development Commission (LCDC) adopted Oregon Administrative Rules (OARs) that guide development of renewable photovoltaic solar energy sites in Eastern Oregon on non-federal Exclusive Farm Use (EFU) and Forest Use zoned land.

EFU Zoning

The administrative rules pertaining to EFU-zoned land become effective on January 1, 2026. Oregon counties will be opted in to the Eastern Oregon Solar Siting Rules unless they specifically take action to opt-out. As a reminder, there are three options for the Board of County Commissioners to consider, which are discussed further below:

- 1. Opt out of the new Eastern Oregon Solar Siting Rules.** This option allows Deschutes County to continue applying existing rules in OAR 660-33-0130(38) ("Section 38") for evaluating applications for photovoltaic solar power generation facilities on a case-by-case basis. These existing rules allow limited solar development on farmland and require approval of an exception to Statewide Planning Goal 3 for any larger renewable solar project (more than 12 acres on high-value farmland, more than 20 acres on arable lands, and more than 320 acres on non-arable lands).

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-254>

2. **Do nothing.** On January 1, 2026, the County is automatically opted into OAR 660-033-130(44) ("Section 44"), which will enable Deschutes County, without amending its Comprehensive Plan or zoning code, to approve applications for larger individual facilities/sites in the EFU zone without taking an exception to Goal 3: up to 160 acres on eligible high value farmland, 1,280 acres on arable farmland, and 1,920 acres on non-arable, lower quality farmland. Under these rules, applicants would have to comply with standardized criteria addressing eligible land, mitigation, and other requirements.
3. **Initiate a customized program pursuant to OAR 660-023-0195 ("Division 23") and under the provision of Statewide Planning Goal 5.** A customized solar siting program to designate photovoltaic solar power generation areas in the county would be considered and potentially adopted as part of a comprehensive plan update. This option would involve a robust public process and allow for acreage sizes for individual application sites larger than allowable under OAR 660-033-130(44): up to 240 acres on eligible high value farmland, 2,560 acres on arable farmland, and 3,840 acres on non-arable, lower quality farmland. Given the significance of this program, it would need to be prioritized as work task in the Community Development Department's (CDD) FY 2025/2026 or 2026/2027 work program. In order to implement this option, the Board would adopt a temporary opt-out order, Order 2025-043, which would be repealed once the plan amendment is adopted. If executed, this option will require a discretionary land use decision and public notice, with the possibility of a hearing and potentially, an appeal.

Forest Use Zoning

LCDC also amended the Forestland Rules, OAR 660, Division 6, to increase the acreage threshold for applications for photovoltaic solar projects from 10 acres to 240 acres without taking an exception to Goal 4. Expanding this use in Forest Use zones will be a significant undertaking because it will require an extensive Goal 5 Economic, Environmental, Social, and Energy (ESEE) analysis due to wildlife inventories that include Elk Range, Tumalo Deer Winter Range, and Metolius Deer Winter Range, and Deer Migration Range. There are two options for the Board's consideration:

1. Continue to allow photovoltaic solar farms on 10-acre parcels of property in the Forest Use zones; or
2. Prioritize as a work task in the CDD FY 2025/2026 or 2026/2027 work program the development of opportunities for photovoltaic solar farms up to 240-acres in the Forest Use zones.

II. EFU Options Comparison

At the September 10 Board meeting, staff was asked to follow up with additional comparison between Options 1 and 2—that is, exclusively maintaining the approval path in OAR 660-33-0130(38) ("Section 38"), or adding the new approval path in OAR 660-033-130(44) ("Section 44").

Upon further consultation with DLCD, staff has revised its understanding of the level of local control offered in Section 44. Staff previously understood Section 44 as removing most local discretion in favor of new state-level criteria that would be the sole determinant of a successful application. However, DLCD has since clarified that this is not the case: the new rules still allow for the same level of local discretion as the existing rules, utilizing the local Conditional Use criteria and local Goal 5 protections. The primary difference with Section 44 is that in order to qualify for the larger acreages allowed via the new rules, the rules require additional criteria to be met, primarily concerning siting and mitigation. The following tables outline the differences between the options.

Prior to the new rules taking effect, counties have two options for solar projects:

Section 38 rules: Conditional use permit for up to: 12 acres on high-value farmland 20 acres on arable lands 320 acres on non-arable lands	Goal 3 exception for sites larger than rule threshold
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The new rules give counties more options for solar siting, ranging from the lowest size/intensity to the highest:

Section 38 rules: Conditional use permit for up to: • 12 acres on high-value farmland • 20 acres on arable lands • 320 acres on non-arable lands	Section 44 rules: Conditional use permit for up to: • 160 acres on high-value farmland • 1,280 acres on arable lands • 1,920 acres on non-arable lands Must meet state criteria for: • Eligible areas • Community benefits • Agricultural mitigation (sometimes) • Farm stability analysis (sometimes) • Fish and wildlife mitigation • Historic/cultural resource • mitigation Temporary workforce housing plan	Division 23 rules: Develop customized program through Goal 5 provisions to determine eligible solar areas, up to: • 240 acres on high-value farmland • 2,560 acres on arable lands • 3,840 acres on non-arable lands Requires extensive public process to establish these areas; would require project to be prioritized on Planning Division work program	Goal 3 exception for sites larger than applicable rule threshold
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Staff seeks Board direction from the following options:

1. Adopt Order No. 2025-042, opting out of Eastern Oregon Solar Siting Rules and continue to apply existing Section 38 rules.
2. Do nothing and automatically opt-in to the additional approval path (Section 44) effective January 1, 2026.
3. Initiate a customized program under new Division 23 rules, under the provision of Statewide Planning Goal 5 and adopt a temporary opt-out order, Order No. 2025-043, that will be repealed once a plan amendment is adopted. Given the significance of this work program, it would need to be prioritized as work task in CDD's FY 2025/2026 or 2026/2027 work program.

III. Forest Use Zoning

LCDC also amended the Forestland Rules, OAR 660, Division 6, to increase the acreage threshold for a photovoltaic solar project that can be processed as a conditional use from 10-acres to 240-acres on Forest Use zoned lands without taking an exception to Goal 4.

At the September 10 meeting, the Board requested a map illustrating Forest-zoned land as they overlap with Goal 5 areas. This map, provided as Attachment 3, shows that of approximately 1,032,375 acres of Forest-zoned land in the County, approximately 289,151 acres are within a Goal 5 Wildlife Area Combining Zone.

Options for the Board's consideration are:

1. Continue to only allow photovoltaic solar farms on up to 10-acre-sized Forest Use-zoned parcels; or
2. Prioritize as a work task in the CDD FY 2025/2026 or 2026/2027 work program the development of opportunities for photovoltaic solar farms up to 240 acres in the Forest Use zones. This would entail a Goal 5 Economic, Environmental, Social, and Energy (ESEE) analysis due to wildlife inventories in forest zones that include Elk Range, Tumalo Deer Winter Range, and Metolius Deer Winter Range, and Deer Migration Range.

Attachments:

1. Opt-Out Order 2025-042
2. Temporary Opt-Out Order 2025-043
3. Forest Zones and WA Combining Zone map