

AGENDA ITEM FOR ADMINISTRATIVE MEETING ( ) Discussion only

( X ) Action

FROM (DEPT/ DIVISION): Community Development

SUBJECT: Eastern Oregon Solar Siting Rulemaking Adoption

<p>Background: The Department of Land Conservation and Development (DLCD) recently concluded rulemaking for Eastern Oregon Solar Siting opportunities. Currently, Umatilla County applies the Oregon Administrative Rule (OAR) directly and has not adopted more restrictive standards for solar siting. OAR 660-033-0130(38) currently allows the County to approve up to 12 acres (without taking a Goal 3 exception) on high value farmland, 20 acres on arable lands and 320 acres on non-arable lands. Larger projects can be permitted through the Energy Facility Siting Council (EFSC). Recent rulemaking amended OAR 660 Divisions 23 (which would require Goal 5 solar siting program) and 33 (which require additional analysis and impacts) Both new rules increase the acreage limits for local siting. The new Division 33 rules will become applicable in Umatilla County on January 1, 2026, unless the County Commissioners opt-out. Community Development Department staff are requesting direction from the Board of County Commissioners to determine whether to opt-in or out of the new rules.</p>	<p>Requested Action: Provide Director direction whether the Board would like staff to begin the process for opting-out of the new Division 33 rules, or if the Board like the County to be opted-in to the new rules?</p>
--	---

ATTACHMENTS: Memo

Date: ( 10/07/25 ) Submitted By: Robert Waldher, Community Development Director  
Megan Davchevski, Planning Division Manager

\*\*\*\*\*For Internal Use Only\*\*\*\*\*

Checkoffs:

- ( ) Dept. Head (copy)
- ( ) Human Resources (copy)
- ( ) Fiscal
- ( ) Legal (copy)
- ( ) (Other - List:)

To be notified of Meeting:

Robert Waldher

Megan Davchevski

Needed at Meeting:

\*\*\*\*\*

Scheduled for meeting on: October 15, 2025

Action taken:

\*\*\*\*\*

Follow-up:



## COMMUNITY DEVELOPMENT

216 SE 4<sup>TH</sup> ST, PENDLETON, OR 97801  
[PLANNING@UMATILLACOUNTY.GOV](mailto:PLANNING@UMATILLACOUNTY.GOV)  
PHONE: (541) 278-6252 FAX (541) 278-5480

### MEMO

**TO:** Umatilla County Board of Commissioners  
**FROM:** Robert Waldher, Community Development Director  
Megan Davchevski, Planning Division Manager  
**DATE:** October 6, 2025

Umatilla County Commissioners,

The Department of Land Conservation and Development (DLCD) recently concluded rulemaking for Eastern Oregon Solar Siting opportunities. The new rules will become applicable in Umatilla County on January 1, 2026, unless the County Commissioners opt-out.

Currently, Umatilla County applies the Oregon Administrative Rule (OAR) directly and has not adopted more restrictive standards for solar siting. OAR 660-033-0130(38) allows the County to approve up to 12 acres (without taking a Goal 3 exception) on high value farmland, 20 acres on arable lands and 320 acres on non-arable lands. Larger projects can be permitted through the Energy Facility Siting Council (EFSC). Recent rulemaking amended OAR 660 Divisions 23 and 33.

#### **New Division 23 Rules:**

The new Division 23 rules allow the County to approve solar projects up to: 240 acres on high value, 2,560 acres on arable lands and 3,840 acres on non-arable lands. In order to apply the new Division 23 rules, the County would be required to adopt its own solar siting program under Goal 5. This would require extensive Comprehensive Planning work and likely require substantial staff time and assistance from consulting firms.

#### **New Division 33 Rules:**

The new Division 33 rules allow the County to approve solar projects up to: 160 acres on high value, 1,280 acres on arable lands and 1,920 acres on non-arable lands. These rules become applicable without any amendments beginning January 1, 2026, **and require a County to opt-out** if they want to continue using the existing Section 38 rules. It is staff's understanding that EFSC will still have the ability to site larger projects.

The new Division 33 rules require significant site consideration of various habitats, slope, soil, military airspace, historical and cultural resources, wildfire and the cumulative impact in agricultural areas. It also requires the County to determine acceptable mitigation measures, including payments to the community using the State's mitigation methodology. The mitigation assessment may require the County to hire various experts for determining required levels of mitigation.

DLCD provided draft mapping of potentially eligible areas based on solar factor, existing transmission and soil classification. Most of Umatilla County's potentially eligible areas are surrounding Ukiah, where there is minimal existing transmission.

The following table was developed by DLCD staff and summarizes the difference between the new Division 23 and 33 Rules:

	<b>Division 23: Solar Areas</b>	<b>Division 33: Solar Sites</b>
<b>Applicability</b>	Requires Plan Amendment	Direct unless county opts out
<b>Acreage Thresholds</b>	240 acres high value farmland 2,560 acres arable land 3,840 acres nonarable land	160 acres high value farmland 1,280 acres arable land 1,920 acres nonarable land
<b>Agricultural Mitigation Considerations</b>	Payment Option and Alternative Option	Payment Option only
<b>Wildlife Mitigation Considerations</b>	Yes, with recommendations from ODFW	Yes, with recommendations from ODFW
<b>Historic, Cultural, Archaeological</b>	Individual project review required	Individual project review required
<b>Community Benefits Considerations</b>	Payment Option and Alternative Option	Payment Option only
<b>Military Airspace Considerations</b>	Yes	Yes
<b>Robust Public Process and Community Engagement</b>	Yes	No

### **Opt-In or Opt-Out**

Community Development Department staff are requesting direction from the Board of County Commissioners. Would the Board like staff to begin the process for opting-out of the new Division 33 rules, or would the Board like the County to be opted-in to the new rules?

Opting-out requires staff to provide a 35-day notice to DLCD and prepare a Comprehensive Plan amendment, which would need to go before both the Planning Commission and Board prior to the end of the year. If the Board would like the County to opt-out, the option remains for the County to opt-in at a later date through the Amendment process. Staff have identified potential hearing dates should this be preferred.

If the County opted-in and then choose to opt-out at a later date, this amendment action could require a Ballot Measure 56 Notice.

We appreciate any discussion, questions and your guidance on how to proceed.

Best regards,

Robert T. Waldher  
Community Development Director

Megan Davchevski  
Planning Division Manager

CC: Doug Olsen, County Counsel