OREGON ADMINISTRATIVE RULES
OREGON DEPARTMENT OF FISH AND WILDLIFE

DIVISION 140
GREATER SAGE-GROUSE CONSERVATION STRATEGY FOR OREGON

635-140-0000
Purpose

These administrative rules establish the policy of the Commission for the protection and enhancement of Greater Sage-Grouse in Oregon. [~~These rules incorporate and supplement portions of the~~] **The** "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" ([~~2011~~] **2025**) ("the Strategy") [~~which~~] sets population and habitat management objectives, and defines and governs the Department's core area approach to conservation of sage-grouse in Oregon**.**[**,** ~~and adopt and incorporate the revised~~] **Figure 4.1,** "Oregon Sage-Grouse Core and Low-Density Habitat Map" (2023)**, and Section 9 (Summary and Recommendations) of the Strategy are incorporated here by reference into administrative rule. The "Oregon Sage-Grouse Core and Low-Density Habitat Map" (2023), is considered** [~~which upon its adoption is] the best available science on Greater Sage-Grouse distribution, available habitat, and core area and low density areas and should function as a replacement to Figure 29 in the Strategy~~]. These rules also advance sage-grouse population and habitat protection through a mitigation hierarchy and the establishment of a mitigation standard for impacts from certain types of development actions in sage-grouse habitat. In the event of a conflict between the [~~"~~]Strategy[~~"~~] and these rules, these rules govern.

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502 & 498.504
Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502 & 498.504

635-140-0002
Definitions

For the purposes of OAR 635-140-0000:

Technical terms used in these sections are further defined in the glossary of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" **(2025).** [~~adopted by the Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife).~~]

(1) "Areas of High Population Richness" are mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e., the top 25%).

(2) "Core areas" are mapped sagebrush types or other habitats that support greater sage-grouse annual life history requirements that are encompassed by areas: a) of very high, high, and moderate lek density strata; b) where low lek density strata overlap local connectivity corridors; or c) where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat." Core area maps are maintained by the Department.

(3) "Development action" means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of sage-grouse habitat. Development actions may include but are not limited to, construction, and operational activities authorized or conducted by local, state, and federal agencies. Development actions also include subsequent re-permitting of existing activities proposing new impacts beyond current conditions.

(4) "Direct impact" means an adverse effect of a development action upon sage-grouse habitat which is proximal to the physical footprint of the development action in time and place.

(5) "Ecostates" are ecological states that express current rangeland vegetation composition, condition, and level of threat from invasive annual grasses, wildfire, and juniper encroachment based on the cover of key rangeland functional groups and the severity of threats present. These states are measured by remote sensing and assigned to a 30 meter square. The 8 ecostates include:

A: Good condition shrubland (shrub cover >12%, perennials exceed annuals by 3:1 ratio, tree cover <5%

A-C: Intermediate condition shrubland = Shrub cover >12%, perennial to annual cover ratio between 1:1 and 3:1, tree cover <5%

C: Poor condition shrubland – Shrub cover >12%, annuals dominant, tree cover <5%

B: Good condition grassland – Shrub cover <12%, perennial to annual cover ratio 3:1 or better

B-D: Intermediate condition grassland – Shrub cover <12%, perennial to annual cover ratio between 1:1 and 3:1

D: Poor condition grassland – Shrub cover <12%, annuals dominant, tree cover <5%

Tree: low-mid cover – Tree cover 5-20%, understory not differentiated

Tree: high cover – Tree cover > 21%, understory not differentiated

([~~5~~]**6**) "Functionality" is the ability of habitat to meet sage-grouse seasonal and/or year round life history needs (e.g. breeding, early rearing, wintering, migratory) and sustain sage-grouse populations.

(7) "General habitat" is occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

([~~6~~]**8**) "Indirect impacts" are adverse effects to sage-grouse and their habitat that are caused by or will ultimately result from implementation of a development action, with such effects usually occurring later in time or more removed in distance as compared to direct effects.

(~~7~~**9**) "Low density" areas are mapped sagebrush types or other habitats that support greater sage-grouse that are encompassed by areas where: a) low lek density strata overlapped with seasonal connectivity corridors; b) local corridors occur outside of all lek density strata; c) low lek density strata occur outside of connectivity corridors; or d) seasonal connectivity corridors occur outside of all lek density strata." Low density area maps are maintained by the Department.

~~[(8) "General habitat" is occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.]~~

(~~9~~**10**) "Priority Areas for Conservation (PACs)" are key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., federal Bureau of Land Management plans or U.S. Fish and Wildlife Service efforts). In Oregon, core area habitats are PACs.

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502
Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502

635-140-0005
Population Management

In accordance with the Wildlife Policy (ORS 496.012), the Department's primary population management goal is to restore, maintain and enhance populations of greater sage-grouse such that multiple uses of populations and their habitats can continue. [~~Regional and state population objectives shall be identified based on the best information available.~~]

(1) Policy: **Considering greater sage-grouse populations in Oregon oscillate over 6–12-year cycles,** [~~M~~]**m**anage greater sage-grouse statewide to maintain or enhance their **distribution and** abundance [~~and distribution~~] **oscillating around** [~~at~~] the 2003 spring breeding population level, approximately **53,000** [~~30,000~~] birds**,** over the next 50 years.

(2) Objectives: Consistent with the population management policy, [~~achieve the following regional population objectives:~~

~~(a) Baker Resource Area BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 2,000 birds.~~

~~(b) Vale District BLM excluding Baker Resource Area BLM): maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 11,000 birds.~~

~~€ Burns District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 4,300 birds.~~

~~(d) Lakeview District BLM: maintain or enhance greater sage-grouse abundance and distribution at the 2003 spring breeding population level, approximately 9,400 birds.~~

~~(e) Prineville District BLM: restore greater sage-grouse abundance and distribution near the 1980 spring breeding population level, approximately 3,000 birds.~~] **manage Oregon's greater sage-grouse populations to maintain stable or increasing population trends statewide and at the PAC-scale. Population trends are assessed between nadirs (troughs) of the population cycles at the statewide and PAC-scales.**

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162
Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

635-140-0010
Habitat Management

(1) Goals: The Department's habitat goals are to achieve the following, recognizing that such achievement is dependent upon authorities, programs, collaborative partnerships, and other factors beyond those within the Department's authority alone:

(a) Maintain or enhance the distribution of sagebrush habitats within greater sage-grouse range in Oregon;

(b) Manage those habitats [~~in a variety of structural stages~~] **with a goal of protecting and growing ecostate A habitats** to benefit greater sage-grouse while reducing or minimizing habitat threats and promoting resilience;

(c) Avoid development actions in sage-grouse core, low density, and general habitats which adversely impact sage-grouse habitat or sage-grouse use of those habitats;

(d) Limit the extent, location, and negative impacts of development actions over time within sage-grouse core, low density, and general habitats. In core areas, direct impact levels from development actions will be limited to no more than 3% of any "Priority Area for Conservation" and a rate not to exceed 1.0% over a ten-year period, as described in OAR 660 023 0115;

(e) Require compensatory mitigation for direct and indirect impacts from developments within sage-grouse core, low density, and general habitats. Ensure such mitigation provides a net conservation benefit to sage-grouse and their habitat by providing an increase in the functionality of their habitat to support sage-grouse, consistent with OAR 635-140-0025.

(2) Objective: Manage a minimum of 70% of greater sage-grouse range **at the statewide and PAC-scale** for sagebrush habitat **in ecostates A (good condition shrubland), B (good condition grassland) and A-C (intermediate condition shrubland) and prioritize the protection and growth of these areas**. [~~in advanced structural stages, sagebrush class 3, 4 or 5, with an emphasis on classes 4 and~~ 5.] The remaining approximately 30% includes areas of juniper encroachment, non-sagebrush shrub land, and grassland and should be managed to

increase **or maintain** available habitat **and facilitate connectivity** within greater sage-grouse range.

(3) Objective: [~~Maintain and enhance existing sagebrush habitats and enhance potential habitats that have been disturbed such that there is a net conservation gain of sagebrush habitat.~~]
Manage sagebrush habitats to achieve a net conservation gain of intact sagebrush communities (ecostate A) and maintain stable or increasing amounts of sagebrush and perennial grassland habitats in ecostates A, B, and A-C, at the statewide and PAC-scale. [~~in the following regions:~~

~~(a) Baker Resource Area BLM: 82% sagebrush and 18% disturbed habitats.~~

~~(b) Vale District BLM (excluding Baker Resource Area): 70% sagebrush and 30% disturbed habitats.~~

~~(c) Burns District BLM: 68% sagebrush and 32% disturbed habitats.~~

~~(d) Lakeview District BLM: 72% sagebrush and 28% disturbed habitats.~~

~~(e) Prineville District BLM: 47% sagebrush and 53% disturbed habitats.~~]

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162
Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

635-140-0015
Core Area Approach to Conservation

(1) The purpose of establishing the Department's core area approach is to address greater sage-grouse management from a conservation biology perspective that identifies the most productive populations and habitats associated with meeting all life history needs related to ensuring sage-grouse viability in Oregon.

(a) Policy 1. The Department shall develop and maintain maps that identify core area habitats necessary to conserve 90% of Oregon's greater sage-grouse population, with emphasis on highest density and important use areas which provide for breeding, wintering and connectivity corridors.

(b) Policy 2. The Department shall develop and maintain maps that identify low density habitat which provide breeding, summer, and migratory habitats of the Oregon statewide greater sage-grouse population.

(c) When developing, revising, or maintaining the maps referred to in paragraphs (a) and (b) the Department will use:

(A) [~~Local~~]Sage-Grouse **Local** Implementation Teams to evaluate the maps and refine exterior boundaries by use of aerial imagery and local knowledge of sage-grouse and sage-grouse habitat;

(B) Best available science to further understanding of greater sage-grouse life history and conservation needs; and

(C) County governing bodies, or their designees, to provide local knowledge and input regarding changes in local land use to be incorporated in the core area maps and any related mapping changes.

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162
Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162

635-140-0025
Mitigation Hierarchy of Impacts in Sage-grouse Core, Low Density, and General Habitats

Adverse impacts in sage-grouse core, low density, and general habitat from development actions must be mitigated by the developer for both direct and indirect adverse impacts to sage-grouse and their habitats. When ascertaining direct and indirect adverse impacts from development actions, the Department will use the most current and best available science related to sage-grouse biology and habitat conservation, including the **Greater Sage-Grouse Habitat Mitigation Program Operation and Administration Manual (ODFW, October 2019)** [~~Mitigation Framework for Sage-Grouse Habitats (ODFW, March 20, 2012)~~]. Mitigation is comprised, in hierarchal order, of avoidance, minimization, and compensatory mitigation.

(1) Policy 1. Mitigation for direct and indirect impacts from development actions will be required where the proposed development action:

(a) Requires a county land use permit, is a large-scale development as defined in OAR 660-023-0115, and would impact core or low density habitat,

(b) Requires a county land use permit, is a large-scale development as defined in OAR 660-023-0115, and would impact general habitat within 3.1 miles of a lek in a manner that would reduce functional sage-grouse habitat or sage-grouse use of their habitat,

(c) Requires a county land use permit but is not a large scale development as defined in OAR 660-023-0115. In this case, through consultation with the development action proponent, the Department will determine:

(A) Whether to require mitigation based on the likelihood of adverse impacts from the proposed action in a manner that would reduce functional sage-grouse habitat or sage-grouse use of that habitat;

(1) within 4 miles of a lek in core area habitat,

(2) within 3.1 miles of a lek in low density habitat, or

(3) within 3.1 miles of a lek in general habitat

(B) If mitigation is required based on (1)(c)(A) above, the appropriate level of mitigation will be based on the nature of the impact upon habitat functionality and the resultant risk to sage-grouse.

(C) Mitigation is not required for private land agricultural activities exempted from regulation under OAR-660-023-0115.

(d) Is located in or would adversely impact sage-grouse habitat on public lands and requires state or federal approval not otherwise exempted in OAR 660-023-0115.

(2) Policy 2. The Department may approve or recommend approval of mitigation for impacts from a large-scale development permitted by a county; or development actions permitted by a state or federal government entity on public land, within sage-grouse habitat only after the following mitigation hierarchy has been addressed by the permitting entity, with the intent of

directing the development action away from the most productive habitats and into the least productive areas for sage-grouse (in order of importance: core area, low density, general, and non-habitat).

(a) Avoidance in Core Area Habitat. If the proposed development can occur in another location that avoids both direct and indirect impacts within core habitat, then the proposal must not be allowed unless it can satisfy the following criteria:

(A) It is not technically feasible to locate the proposed development activity or its impacts outside of a core habitat area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that the development must be located such that it will have direct or indirect impacts on sage-grouse core area habitat; or

(B) The proposed development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and

(C) If the proposal is for a large-scale development as defined in Oregon Land Conservation and Development OAR 660-023-0115 and either (2)(a)(A) or (2)(a)(B) is found to be satisfied, the permitting entity must also find that it will provide important economic opportunity, needed infrastructure or public safety benefits for local citizens or the entire region.

(b) Avoidance in Low Density Habitat. If the proposed development action can occur in another location that avoids both direct and indirect impacts within low density sage-grouse habitat, then the proposal must not be allowed unless it can satisfy the following criteria:

(A) It is not technically or financially feasible to locate the proposed use outside of low density sage-grouse habitat based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(B) The proposed development action is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations.

(c) Avoidance in General Habitat. If the proposed development activity and its direct and indirect impacts are in general sage-grouse habitat (within 3.1 miles of a lek), then the permitting entity may allow the activity based on satisfaction of the following criteria:

(A) Consultation between the development proponent and the Department that generates recommendations pursuant to the approach identified in minimization subsection (d), and

(B) Incorporation by the project proponent of reasonable changes to the project proposal based on
the above consultation with the Department, and/or justification as to why a given recommendation is not feasible.

(d) Minimization. If after exercising the above avoidance tests, the permitting entity finds the proposed development action cannot be moved to non-habitat or into a habitat category that avoids adverse direct and indirect impacts to a habitat category of greater significance (i.e., core or low density), then the next step applied in the mitigation hierarchy will be minimization of the direct and indirect impacts of the proposed development action. Minimization consists of how to best locate, construct, operate and time (both seasonally and diurnally) the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat and sage-grouse.

(A) Minimizing impacts from development actions in core habitat shall ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project proponent demonstrates, by a preponderance of the evidence, that such an approach is not feasible.

(B) Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and the Department that considers and results in recommendations on how to best locate, construct, or operate the development action so as to avoid or minimize direct and indirect impacts on important sage-grouse habitat within the area of general habitat.

(e) Compensatory Mitigation. If avoidance and minimization efforts have been exhausted, compensatory mitigation to address both direct and indirect impacts will be required as part of the permitting process for remaining adverse impacts from the proposed development action to sage-grouse habitat, consistent with the mitigation standard in (3) Policy 3 below.

(3) Policy 3. The standard for compensatory mitigation of direct and indirect habitat impacts in sage-grouse habitat (core low density, and general areas) is to achieve net conservation benefit for sage-grouse by replacing the lost functionality of the impacted habitat to a level capable of supporting greater sage-grouse numbers than that of the habitat which was impacted. Where mitigation actions occur in existing sage-grouse habitat, the increased functionality must be in addition to any existing functionality of the habitat to support sage-grouse. When developing and implementing mitigation measures for impacts to core, low density, and general sage-grouse habitats, the project developers shall:

(a) Work directly with the Department and permitting entity to obtain approval to implement a mitigation plan or measures, at the responsibility of the developer, for mitigating impacts consistent with the standard in OAR 635 140 0025 (3) or,

(b) Work with an entity approved by the Department to implement, at the responsibility of the developer, "in-lieu fee" projects consistent with the standard in OAR 635 140 0025 (3).

(c) Any mitigation undertaken pursuant to (a) or (b) above must have in place measures to ensure the results of the mitigation activity will persist [~~(barring unintended natural events such as fire)~~] for the life of the original impact. The Department will engage in mitigation discussions related to development actions in a manner consistent with applicable timelines of permitting entities.

(4) Policy 4. The Department shall follow the Fish and Wildlife Habitat Mitigation Policy (OAR 635-415-0000) when defining habitat categories and providing recommendations to address potential site-level impacts to species other than greater sage-grouse that occur within

sage-grouse core area habitat or sage-grouse low density habitat, except that if there is a resulting conflict between OAR 635-415-0000 and this rule, then this rule shall control.

Statutory Authority: ORS 496.012, 496.138, 496.146, 496.162**, 498.500, 498.502, 498.504**
Stats Implemented: ORS 496.012, 496.138, 496.146, 496.162**, 498.500, 498.502, 498.504**