

OFFICE OF THE SECRETARY OF STATE
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 MICHAEL KAPLAN
 DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
 STEPHANIE CLARK
 DIRECTOR

 800 SUMMER STREET NE
 SALEM, OR 97310
 503-373-0701

NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635

DEPARTMENT OF FISH AND WILDLIFE

FILED

07/24/2025 1:58 PM
 ARCHIVES DIVISION
 SECRETARY OF STATE

FILING CAPTION: Amend Rules Relating to the Revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/12/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Roxann Borisch
 503-947-6314
 roxann.b.borisch@odfw.oregon.gov

4034 Fairview Industrial Drive SE
 Salem, OR 97302

Filed By:
 Roxann Borisch
 Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/12/2025

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

IN-PERSON HEARING DETAILS

ADDRESS: Four Rivers Cultural Center, 676 SW 5th Avenue, Ontario, OR 97914

SPECIAL INSTRUCTIONS:

This hearing will be conducted as a hybrid meeting, providing an opportunity to give testimony either in person or virtually. Additional information regarding participation will be posted on our website at www.dfw.state.or.us/agency/commission/minutes/. The meeting can be viewed at www.youtube.com/user/IEODFW. Any changes to the meeting format (to virtual only if emergency arises) will be posted to our website as soon as possible.

NEED FOR THE RULE(S)

These rules are needed to update the Oregon Department of Fish and Wildlife's plan for managing sage-grouse.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 09/11/2025, including the presentation and all provided materials.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Fish Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Roxann Borisch at 503-947-6314 or Roxann.B.Borisch@odfw.oregon.gov to view by appointment between the hours of 8:00 a.m. and 4:00 p.m., on normal working days, Monday through Friday.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Department has solicited input from representatives of underrepresented communities likely to be affected on whether the proposed rule will have a fiscal impact on the community, the extent of the fiscal impact, and whether the rules will have significant impact on underrepresented communities. <https://www.dfw.state.or.us/OARs/index.asp>

FISCAL AND ECONOMIC IMPACT:

These proposed rule amendments and the associated revisions to the current Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (or “CAAS”) incorporate updated terminology and practices, such as using ‘ecostates’ to refine habitat objectives to support conservation and management of sage-grouse. Sage-grouse core habitat and low-density habitat maps, which are already adopted into rule, are incorporated into the CAAS. A detailed description of these changes is provided below. It is not anticipated that these proposed rule amendments would result in major economic or fiscal impacts.

Fiscal and economic impacts discussed in this document pertain only to the proposed rules at the time of writing of this fiscal impact statement.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

State agencies that could be affected by these rule amendments are the Oregon Department of Fish and Wildlife (ODFW) and the Department of Land Conservation and Development (DLCD). DLCD and ODFW share responsibility in implementing rules related to property development in sage-grouse core and low density habitats, including informing affected members of the public of the effect of updates to sage-grouse core habitat and low-density habitat maps which were adopted into rule through separate rulemaking in December 2023.

Proposed changes to the Greater Sage-Grouse Conservation Assessment and Strategy include, adding definitions for ‘ecostates’ and ‘general habitat’; removal of specific regional population objectives to shift towards maintaining a stable or increasing population trend statewide and for PAC-scales; clarification that population trends will be assessed between the nadirs (troughs) of the 6-12 year population cycles; habitat management goals are refined to protect ecostates and facilitate connectivity; updates to technical and statutory references. It is not expected that these changes will result in new agency expenses or changes to agency operations/workloads that are nonabsorbable in nature with current resources.

No units of local government are expected to be adversely affected by these rule amendments. No significant changes from the current levels of any local agencies’ operations or expenditures are expected to result from these amendments. There is a benefit to local areas that have sage-grouse populations in having an updated CAAS.

These rule amendment and revisions to the related CAAS, in concert with sage-grouse conservations efforts across the west, may help in discouraging future petitions to list the species under the Endangered Species Act (ESA) and would likely factor into future U.S. Fish and Wildlife Service decisions related to should a future petition occur. Should such an

ESA listing occur, it would be expected to have significant social and economic impacts to the livestock industry, counties, and local communities within the range of the species.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);
Impacts to small businesses are not expected to result from these amended rules.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);
No change from existing efforts.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).
No change from existing efforts.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

These proposed rule amendments are related to revisions to the CAAS. An external review team including representation from the Association of Oregon Counties and private land ranching provided input on the revisions to the CAAs.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The Department utilized the external review team as described above to gather input.

RULES PROPOSED:

635-140-0000, 635-140-0002, 635-140-0005, 635-140-0010, 635-140-0015, 635-140-0025

AMEND: 635-140-0000

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

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 "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" (2011~~25~~) ("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 "Oregon Sage-Grouse Core and Low-Density Habitat Map" (2023) which ~~upon, at the time of 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~~ is represented by Figure ~~294.1~~ 294.1 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.

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

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

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" adopted by the Commission on ~~April 2~~September 12, 2014~~25~~, (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) A: Good condition shrubland (shrub cover >12%, perennials exceed annuals by 3:1 ratio, tree cover <5%¶¶

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

(c) C: Poor condition shrubland - Shrub cover >12%, annuals dominant, tree cover <5%¶¶

(d) B: Good condition grassland - Shrub cover <12%, perennial to annual cover ratio 3:1 or better¶¶

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

(f) D: Poor condition grassland - Shrub cover <12%, annuals dominant, tree cover <5%¶¶

(g) Tree: low-mid cover - Tree cover 5-20%, understory not differentiated¶¶

(h) Tree: high cover - Tree cover > 21%, understory not differentiated¶¶

(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.¶¶

~~(67)~~ "General habitat" is occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.¶¶

(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.¶¶

~~(79)~~ "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.¶¶

~~(910)~~ "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/Other Authority: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162, 498.500, 498.502

AMEND: 635-140-0005

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

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: M ¶~~

(1) Policy: Considering greater sage-grouse populations in Oregon oscillate over 6 to 12-year cycles, manage greater sage-grouse statewide to maintain or enhance their abundance and distribution at distribution and abundance oscillating around the 2003 spring breeding population level, approximately 530,000 birds, over the next 50 years.¶

~~(2) Objectives: Consistent with the population management policy, achieve the following manage Oregional 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.¶~~

~~(c) 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 bird'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/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162

AMEND: 635-140-0010

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

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 for sagebrush habitat in advanced at the statewide and Priority Area for Conservation (PAC) scale for sagebrush habitat in ecostates A (good condition structural stages, sagebrush class 3, 4 or 5, with an emphasis on classes 4 and 5.bland), B (good condition grassland), and A-C (intermediate condition shrubland) and prioritize the protection and growth of these areas. 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~~ Manage sagebrush habitats to achieve a net conservation gain of intact sagebrush habitat 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 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.

Statutory/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162

AMEND: 635-140-0015

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

635-140-0015

Core Area Approach to Conservation ¶¶

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.¶¶

(1) 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.¶¶

(2) 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.¶¶

(3) 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/Other Authority: ORS 496.012, 496.138, 496.146, 496.162

Statutes/Other Implemented: ORS 496.012, 496.138, 496.146, 496.162

RULE SUMMARY: These proposed rule amendments reflect the primary goals and objectives of the revised Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, as well as amend minor grammatical errors.

CHANGES TO RULE:

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 Mitigation Framework for Sage-Grouse Habitats (ODFW, March 20, Greater Sage-Grouse Habitat Mitigation Program Operation and Administration Manual (ODFW, October 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;¶¶

(i) Within 4 miles of a lek in core area habitat;¶¶

(ii) Within 3.1 miles of a lek in low density habitat; or¶¶

(iii) 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/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