

DRAFT ~~121-57-08~~

OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 033, RULE 120

TABLE 1

<u>HV Farm</u>	<u>All Other</u>	<u>Uses</u>
		Utility/Solid Waste Disposal Facilities
R5, 17	R5, 22	Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities.
R5, 37	R5, 37	Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale.

660-033-0130

Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses
(current)

- (5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:
- (a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - (b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.
- (37) For purposes of this rule a wind power generation facility includes, but is not limited to, the following system components: all wind turbine towers and concrete pads, permanent meteorological towers and wind measurement devices, electrical cable collection systems connecting wind turbine towers with the relevant power substation, new or expanded private roads (whether temporary or permanent) constructed to serve the wind power generation facility, office and operation and maintenance buildings, temporary lay-down areas and all other necessary appurtenances. A proposal for a wind power generation facility shall be subject to the following provisions:

(a) For high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that all of the following are satisfied:

A) Reasonable alternatives have been considered to show that siting theany wind power generation facility or component thereof on high-value farmland soils is necessary for the facility or component to function properly or if a road system or turbine string must be placed on such soils to achieve a reasonably direct route ~~and considering the following factors~~due to the following factors:

~~(i) The proposed wind power generation facility or component thereof is locationally dependent on high-value farmland soils. A wind power generation facility is locationally dependent if the necessary wind resource can only be obtained at the proposed site. A component of a wind power generation facility may be locationally dependent if it must be sited on high-value soils to function properly, or if a road system or turbine string must cross high-value soils to achieve a reasonably direct route; and~~

(i) i — Technical and engineering feasibility; ~~or~~

~~(ii)~~ (ii) Availability of existing rights of way; ~~or~~ *and*

~~(iv)~~ (iii) The long term environmental, economic, social and energy consequences of siting the facility or component on alternative sites, as determined under paragraph (37)(a)(B) of this subsection. ~~Public health and safety.~~

(B) The long-term environmental, economic, social and energy consequences resulting from the wind power generation facility or any components thereof at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other agricultural lands that do not include high-value farmland soils. ~~and~~

(C) Costs associated with any of the factors listed in paragraph (A) of this subsection may be considered, but costs alone may not be the only consideration in determining that siting any component of a wind power generation facility on high-value farmland soils is necessary.

(D) The owner of a wind power generation facility approved under OAR 660-033-0130(37)(a) shall be responsible for restoring, as nearly as possible, to its former condition any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this subsection shall prevent the owner of the facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.

Formatted: Bullets and Numbering

Formatted: Indent: Left: 0.5"

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

(E) The criteria of OAR 660-033-0130(37)(b) are satisfied.

(b) For arable lands, meaning lands that are cultivated or suitable for cultivation, including high-value farmland soils described at ORS 195.300(10), the governing body or its designate must find that:

(A) The proposed wind power facility will not create unnecessary negative impacts on existing agricultural operations conducted on the subject property, now or in the future. 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 wind farm components, such as meteorological towers on lands in a manner that could disrupt common and accepted farming practices; and

(B) The presence of a proposed wind power facility will not result in unnecessary soil erosion or loss that could limit agricultural 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 and how topsoil will be stripped, stockpiled and clearly marked. The approved plan shall be attached to the decision as a condition of approval; and

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. 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; and

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds 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.

(c) For nonarable lands, meaning lands that are not suitable for cultivation, the governing body or its designate must find that the requirements of OAR 660-033-0130(37)(b)(D) are satisfied.

(d) In the event that a wind power generation facility is proposed on a combination of arable and nonarable lands as described in OAR 660-033-0130(37)(b) & (c) the approval criteria of OAR 660-033-0130(37)(b) shall apply to the entire project. ~~The provisions of OAR 660-033-0130(37)(a) shall also apply, if applicable.~~