OAR 660-023-0115

(1) For purposes of this rule, the following definitions apply:

(a) “Core areas” are prioritized habitat based on measures that assess breeding bird density of sage-grouse populations and associated habitats.

(b) “Disturbance” is natural (fire, conifer infestation, noxious weeds, etc...) and anthropogenic (human caused) activities that can negatively affect sage-grouse habitat. In the context of avoidance, minimization and compensatory mitigation per OAR 660-023-0115(6)(a), (b) & (c), disturbance means the area of direct impact (the physical footprint of the development or activity), and the area of indirect impacts that are known to affect essential behavioral aspects of sage grouse life stages (breeding, foraging, shelter, and migration) as set forth in ____ (supplemental ODFW sage grouse policy). For indirect impacts, this framework will include specific impact areas for the most common types of indirect impacts: noise and predation.

(c) “Large Scale Development” is anthropogenic activity that requires a land use decision as defined at ORS 197.015(10) and ________ Large-scale development does not include the establishment of a residence or the creation of a new area of cultivated agriculture, or the irrigation of land for agriculture.

(d) “Low density areas” are habitat that serve in conjunction with core areas to provide a complete, biologically important environment necessary for the persistence of the species.

(e) “Sage-grouse habitat” is a category of wildlife habitat.

(f) “Sage grouse lek” means ________________.

(g) “Sage grouse migration corridor” means ________________.

(h) “Significant economic activity” means a use that will create at least 100 full time jobs, not including construction employees, with wages and benefits that exceed the regional average.

(i) “Structure” means a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components that are not customarily regulated through zoning ordinances.

(2) Local governments may develop a program to achieve Goal 5 with regard to sage-grouse habitat by following the standard Goal 5 ESEE process in OAR 660-023-0040 and 660-023-0050 and submitting the amendment to the Commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175. Until a county amends its comprehensive plan and land use regulations to achieve Goal 5 with regard to sage grouse habitat, the provisions of subsections (3) thru (8) shall apply directly to land use decisions affecting one or more core areas or low density areas.
(3) The location of core areas and low density areas shall be determined by following the final core area maps published by the Oregon Department of Fish and Wildlife, as they may be updated or amended from time to time. Exact locations may be refined during consideration of specific projects but must be done in consultation with ODFW.

(4) Core areas and low density areas located outside of urban growth boundaries, unincorporated community boundaries established pursuant to OAR Chapter 660, Division 22, lands designated as exception areas under OAR Chapter 660, Divisions 4 or 14, or any land otherwise designated for nonresource purposes as of January 1, 2015 are significant sage-grouse habitat.

(5) Large scale development is considered to be a conflicting use for purposes of protecting significant sage-grouse habitat. Farm use as defined in ORS 215.203(1), including livestock grazing is specifically not considered a conflicting use for purposes of protecting significant sage-grouse habitat.

(6) Large scale development may be allowed in a core area upon finding that:

(a) Avoidance. The proposed large-scale development (including the direct footprint of the use and its indirect impact area) must be locationally dependent and unable to be sited outside of a core area. A large-scale development is locationally dependent if it must be located in a core area based one or more of the following factors:

(A) It is dependent on a unique geographic or other physical feature(s) that can not be found on other lands, such as significant energy resources or rare mineral deposits, or it is a linear use that must cross core area in order to achieve a reasonably direct route.

(B) If the use is an urban use, lack of available urban and nonresource lands;

(C) If the use is a linear use it must use existing rights of way or locate adjacent to them, to the extent possible;

(D) It is not technically feasible to locate the proposed use outside of a core area based on accepted engineering practices, regulatory standards or some combination thereof.

(D) Public health and safety; and

(E) Other requirements of state or federal agencies.

(F) Costs associated with any of the factors listed above may be considered, but cost alone may not be the only consideration in determining that development must be located such that it will have direct or indirect impacts on core areas.

(b) Minimization. If the proposed use cannot be sited by avoiding core area-sage grouse habitat altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the development adjacent to existing development and at the edge of the core area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of
construction and/or use, and methods of construction. Costs associated with minimization may be
considered, but cost alone may not be the only consideration in determining that location of
development cannot further minimize direct or indirect impacts to core areas.

(c) Compensatory Mitigation. To the extent that a proposed large-scale development will have direct
or indirect adverse impacts on a core area or low density habitat after application of the avoidance
and minimization standards and criteria, above, the permit must be conditioned to fully offset the
direct and indirect adverse effects of the development to any core area and any low density habitat.
The required mitigation must comply with the supplemental Sage Grouse mitigation policy adopted
by the Oregon Fish and Wildlife Commission.  

(7) Large scale development may be allowed in a low density area upon finding that the proposed
development, including direct and indirect disturbance __________________________.

(8) Significant sage-grouse habitat may not be converted from a farm or forest designation protected
under goals 3 or 4 to a land use designation with greater development potential or mapped as eligible
for destination resorts under goal 8.

(9) The provisions of this rule become applicable on July 1, 2017 rather than as otherwise specified by
OAR 660-023-0250.

(10) Landscape-Level Disturbance. The standards in subsection (6) to (8), above, are designed to
minimize the amount of future disturbance from anthropogenic sources to core and low density
areas. Consistent with available science concerning the relation between human disturbance and
sage grouse population levels, the department will monitor direct disturbance in core areas in each of
the priority areas shown in Exhibit __. These rules are intended to ensure that disturbance levels do
not exceed three percent in any priority area, and that the overall amount of direct disturbance in any
priority area does not increase by more than __ in any ten-year period following the effective date of
these rules. If either of these thresholds is exceeded, then the department must report that
exceedance to the commission along with a proposal to amend these rules to adapt the standards and
criteria such that the thresholds are met.

(11) The department will work with ODFW, the BLM and USFWS to maintain a central registry,
tracking disturbance from existing (baseline) and all new development affecting core areas and low
density habitat. Counties must report all development permits for all uses within a core area or
within low density habitat to the department. The registry will include baseline calculations of direct
disturbance as of the date of the proposed listing of Sage Grouse, in 2010.

(12) State agency coordination programs. All state agencies that carry out or that permit large-scale
development in core area or in low density habitat, including but not limited to OWRD. ODOT, DSL,
DOGAMI, ODOE and the EFSC, and DEQ must report the proposed development to the department,
along with an estimate of the direct disturbance of the development. In addition, to the extent not

1 The details of compensatory mitigation crediting and debiting are contained in the supplemental
ODFW mitigation policy.
regulated by a county, such development, other than the issuance of water rights and the expansion of cultivation, must meet the requirements of subsection (6)(c) of this rule.