

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



Attachment 2

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

10/19/2023 4:48 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Adopt Revised Oregon Sage-grouse Core and Low-Density Habitat Map

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/15/2023 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: 12/15/2023

TIME: 8:00 AM - 5:00 PM

OFFICER: ODFW Commission

HEARING LOCATION

ADDRESS: McMinnville Community Center, 600 NE Evans Street, McMinnville, OR 97128

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)

The "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" (2011) ("the Strategy") defines and governs the Department's core area approach to conservation of sage-grouse in Oregon. The Strategy and OAR Chapter 635 Division 140 establish a process for developing, revising, and maintaining maps that identify sage-grouse core area habitat and low-density habitat. The sage-grouse core area and low-density habitat maps were last updated in 2011. Since 2011, over 500 new sage-grouse leks have been discovered and coordinates of over one million sage-grouse locations have been documented. This update and revision of the core area and low-density habitat map is necessary to ensure the map incorporates the best available science to identify areas that currently provide breeding, summering, wintering, migratory habitats for greater sage-grouse.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. 2011 Oregon Greater Sage-grouse Conservation Assessment and Strategy

https://www.dfw.state.or.us/wildlife/sagegrouse/docs/GRSG_Conservation_Assessment_and_Strategy_April_25-11.pdf

2. https://www.dfw.state.or.us/wildlife/sagegrouse/cas_update_2023.asp

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, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142. Contact Roxie 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:

The proposed updates to the sage-grouse core area and low-density habitat maps are not anticipated to result in a direct economic or fiscal impact. A summary of potential indirect effects is provided in detail below.

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).

The Department does not anticipate any additional fiscal impacts to revenues or operating costs as a result of these revisions. There is a potential impact to other state and federal agencies who have rules regarding sage-grouse, such as the Oregon Department of Land Conservation and Development (DLCD), Stage-Grouse Rule, OAR 660-023-0115) and the US Bureau of Land Management (BLM), Oregon Greater Sage-grouse (sage-grouse) adaptive management thresholds and triggers, as there is the potential that by providing the best available scientific information through updates the sage-grouse habitat maps may allow for further rulemakings by these agencies.

There may be a potential impact on property development that would affect Baker, Malheur, Harney, Crook, Deschutes, and Lake counties. This would likely primarily include large-scale developers (e.g. solar facilities, wind facilities, transmission lines, cell phone towers, landfills, etc.) and landowners that would benefit from large-scale development siting on their property. Direct impacts are expected to be limited since the proposed updates are to the sage-grouse core area and low-density habitat maps and are being made as a separate action. These revisions are not as comprehensive as updating the Strategy that defines and governs sage-grouse conservation in Oregon.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); Direct effects to small businesses are not expected at this time.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

No changes from current compliance costs of this type are anticipated.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No changes from current compliance costs of this type are anticipated.

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

Public meetings were held in each county for county commissioners and members of the public, as well as informational sessions with Sage-grouse Local Implementation Teams.

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

The Department is proposing minor wording changes to Division 140 that will allow for the approval of the sage-grouse core and low density maps by the Oregon Fish and Wildlife Commission.

AMEND: 635-140-0000

RULE SUMMARY: The Department is proposing adoption of revisions to sage-grouse core and low-density habitat maps.

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) ("the Strategy"), including revised "Oregon Sage-grouse Core and Low-Density Habitat Maps" (2023), which sets population and habitat management objectives, and defines and governs the Department's core area approach to conservation of sage-grouse in Oregon. 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