

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

FILED 1-14-16 2:07 PM ARCHIVES DIVISION SECRETARY OF STATE
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Department of Fish and Wildlife Agency and Division	635 Administrative Rules Chapter Number
Michelle Tate Rules Coordinator	(503) 947-6044 Telephone
Department of Fish and Wildlife, 4034 Fairview Industrial Dr. SE, Salem, OR 97302 Address	

RULE CAPTION

Amend Division 415 rules to refer specifically to Division 140 rules for sage-grouse mitigation issues.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
3-18-16	8:00 a.m.	ODFW, 4034 Fairview Industrial Drive SE, Salem, OR 97302	ODFW Commission

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

635-415-0025

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 496.012, 496.112, 496.118, 496.138, 496.146, 498.500 & 498.502

Other Authority:

Statutes Implemented:

ORS 496.012, 496.112, 496.118, 496.138, 496.146, 498.500 & 498.502

RULE SUMMARY

Approve permanent rules for Division 415. This amendment in Division 415 directs sage-grouse specific mitigation issues to refer to Division 140, Greater Sage-Grouse Conservation Strategy for Oregon, and creates an exception for any energy facility that has submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before the effective date of this rule

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.

03-18-2016 Close of Hearing Last Day (m/d/yyyy) and Time for public comment	Michelle Tate Rules Coordinator Name	michelle.l.tate@state.or.us Email Address
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*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

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STATEMENT OF NEED AND FISCAL IMPACT
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Department of Fish and Wildlife
Agency and Division

635
Administrative Rules Chapter Number

Amend Division 415 rules to refer specifically to Division 140 rules for sage-grouse mitigation issues.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
In the Matter of:

Rules relating to OAR Chapter 635, Division 140, Implementation of Department Habitat Mitigation Recommendations

Statutory Authority:

ORS 496.012, 496.112, 496.118, 496.138, 496.146, 498.500 & 498.502

Other Authority:

Statutes Implemented:

ORS 496.012, 496.112, 496.118, 496.138, 496.146, 498.500 & 498.502

Need for the Rule(s):

These permanent rules are needed to amend Division 415 rules to refer specifically back to Division 140 rules for impacts to sage-grouse habitat and to create an exception for any energy facility that has submitted a preliminary application for site certificate on or before the effective date of this rule.

Documents Relied Upon, and where they are available:

Draft rules are available from the division's rules coordinator, located at 4034 Fairview Industrial Drive, SE; Salem, Or 97302. Rules are also on the ODFW website at <http://www.dfw.state.or.us/OARs/index.asp>.

Fiscal and Economic Impact:

The proposed rules are to make permanent a temporary rule, which indicates that rules in Division 415 (Habitat Mitigation Policy) are superseded in the case of sage-grouse habitat. Applicable rules for sage-grouse habitat mitigation are in Division 140. In addition, the temporary rule, now to be made permanent, includes an exception for any energy facility that submitted a preliminary application for a site certificate on or before the effective date of the temporary rule such that certain provisions of Division 140 do not apply.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

The proposed rules will affect state agencies, units of local government, and the public, respectively, as discussed below:

- A. State agency that could be affected by these rules are the Oregon Department of Fish and Wildlife (ODFW). No significant changes from the current levels of the agency's staffing, expenditures, or revenues are expected as a result of these particular rules.
- B. Units of local government are not expected to be affected by the proposed rules.
- C. The public is affected by the proposed rules. Without this rule, it may not be clear that Division 415 no longer applies in sage-grouse habitat. Businesses planning or proposing energy facility development expend significant resources planning their proposed facilities and preparing applications, and those resources would be wasted if proposals are developed to comply with rules that are no longer applicable. This rule will provide clear guidance of the applicable rules to prevent the wasting of businesses' resources.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

Small businesses that develop energy projects or assisting other businesses in energy project development would be affected by the proposed rules. The number of small businesses affected cannot be determined given that business concerns from any U.S. state could be involved in energy project development in Oregon and, to our knowledge, there is not central database or information clearinghouse for those businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No significant changes in these costs are expected for the small businesses subject to the rule.

c. Equipment, supplies, labor and increased administration required for compliance:

No significant changes in these costs are expected for the small businesses subject to the rule.

How were small businesses involved in the development of this rule?

N/A

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

<u>03-18-2016 Close of Hearing</u>	<u>Michelle Tate</u>	<u>michelle.l.tate@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address