

DIVISION 415

FISH AND WILDLIFE HABITAT MITIGATION POLICY

635-415-0025

Implementation of Department Habitat Mitigation Recommendations

(1) "Habitat Category 1" is irreplaceable, essential habitat for a fish or wildlife species, population, or a unique assemblage of species and is limited on either a physiographic province or site-specific basis, depending on the individual species, population or unique assemblage.

(a) The mitigation goal for Category 1 habitat is no loss of either habitat quantity or quality.

(b) The Department shall act to protect Category 1 habitats described in this subsection by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) No authorization of the proposed development action if impacts cannot be avoided.

(2) "Habitat Category 2" is essential habitat for a fish or wildlife species, population, or unique assemblage of species and is limited either on a physiographic province or site-specific basis depending on the individual species, population or unique assemblage.

(a) The mitigation goal if impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a net benefit of habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 2 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

(B) Mitigation of impacts, if unavoidable, through reliable in-kind, in-proximity habitat mitigation to achieve no net loss of either pre-development habitat quantity or quality. In addition, a net benefit of habitat quantity or quality must be provided. Progress towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the development action.

(c) If neither 635-415-0025(2)(b)(A) or (B) can be achieved, the Department shall recommend against or shall not authorize the proposed development action.

(3) "Habitat Category 3" is essential habitat for fish and wildlife, or important habitat for fish and wildlife that is limited either on a physiographic province or site-specific basis, depending on the individual species or population.

(a) The mitigation goal is no net loss of either habitat quantity or quality.

(b) The Department shall act to achieve the mitigation goal for Category 3 habitat by recommending or requiring:

(A) Avoidance of impacts through alternatives to the proposed development action; or

1 (B) Mitigation of impacts, if unavoidable, through reliable in-kind, in-proximity habitat mitigation to achieve
2 no net loss in either pre-development habitat quantity or quality. Progress towards achieving the mitigation goals
3 and standards shall be reported on a schedule agreed to in the mitigation plan performance measures. The fish and
4 wildlife mitigation measures shall be implemented and completed either prior to or concurrent with the
5 development action.

6 (c) If neither 635-415-0025(3)(b)(A) or (B) can be achieved, the Department shall recommend against or shall
7 not authorize the proposed development action.

8 (4) "Habitat Category 4" is important habitat for fish and wildlife species.

9 (a) The mitigation goal is no net loss in either existing habitat quantity or quality.

10 (b) The Department shall act to achieve the mitigation goal for Category 4 habitat by recommending or
11 requiring:

12 (A) Avoidance of impacts through alternatives to the proposed development action; or

13 (B) Mitigation of impacts, if unavoidable, through reliable in-kind or out-of-kind, in-proximity or off-
14 proximity habitat mitigation to achieve no net loss in either pre-development habitat quantity or quality. Progress
15 towards achieving the mitigation goals and standards shall be reported on a schedule agreed to in the mitigation
16 plan performance measures. The fish and wildlife mitigation measures shall be implemented and completed either
17 prior to or concurrent with the development action.

18 (c) If neither 635-415-0025(4)(b)(A) or (B) can be achieved, the Department shall recommend against or shall
19 not authorize the proposed development action.

20 (5) "Habitat Category 5" is habitat for fish and wildlife having high potential to become either essential or
21 important habitat.

22 (a) The mitigation goal, if impacts are unavoidable, is to provide a net benefit in habitat quantity or quality.

23 (b) The Department shall act to achieve the mitigation goal for Category 5 habitat by recommending or
24 requiring:

25 (A) Avoidance of impacts through alternatives to the proposed development action; or

26 (B) Mitigation of impacts, if unavoidable, through actions that contribute to essential or important habitat.

27 (c) If neither 635-415-0025(5)(b)(A) or (B) can be achieved, the Department shall recommend against or shall
28 not authorize the proposed development action.

29 (6) "Habitat Category 6" is habitat that has low potential to become essential or important habitat for fish and
30 wildlife.

31 (a) The mitigation goal is to minimize impacts.

32 (b) The Department shall act to achieve the mitigation goal for Category 6 habitat by recommending or
33 requiring actions that minimize direct habitat loss and avoid impacts to off-site habitat.

34 **(7) For proposed developments subject to this rule with impacts to greater sage-grouse habitat**
35 **in Oregon, mitigation shall be addressed as described in OAR 635-140-0000 through 635-140-0025,**
36 **except that any energy facility that has submitted a preliminary application for site certificate**

1 **pursuant to ORS 469.300 et seq. on or before the effective date of this rule is exempt from fulfilling**
2 **the avoidance test contained in 635-140-0025, Policy 2, subsections (a), (b), (c) and (d)(A). Other**
3 **mitigation provisions contained in 635-140-0025, Policy 2, subsections (d)(B) and (e), and Policies 3**
4 **and 4 remain applicable.**

5 Stat. Auth.: ORS 496.012, ORS 496.112, ORS 496.118, ORS 496.138, ORS 496.146, ORS 496.171, ORS 498.500,
6 ORS 498.502, ORS 506.109 & ORS 506.119

7 Stats. Implemented: ORS 496.012, ORS 496.112, ORS 496.118, ORS 496.138, ORS 496.146, ORS 496.171, ORS
8 498.500, ORS 498.502, ORS 506.109 & ORS 506.119

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