

OAR 660-033-0130

(39) For purposes of this rule, a water impoundment for agricultural use shall be considered a utility facility necessary for public service under ORS 215.213(1)(c) and ORS 215.283(1)(c). A water impoundment for agricultural use shall include water impoundments and reservoirs not permitted under ORS 215.203(2)(b)(G), that are used exclusively for agricultural uses and mitigation required pursuant to approved agricultural water rights.

(a) As used in this rule “water impoundment” means the above-ground storage of water that is collected and confined through a man-made system involving dams, dikes, diversions or natural or altered land topography that renders affected land no longer available for cultivation or grazing.

(b) For a water impoundment to be permitted in an exclusive farm use zone, the governing body or its designate must find that:

(A) The criteria of ORS 215.275 and OAR 660-033-0130(16) are satisfied;

(B) The long-term environmental, economic, social and energy consequences resulting from the water impoundment for agricultural use 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:

(i) Other lands that may or may not contain identified Goal 5 resources that are protected under the county’s comprehensive plan; and

(ii) Other lands that may or may not contain documented fish and wildlife habitat pursuant to the definitions included at OAR 660-023-0110(3); and

(C) All other applicable provisions of law are satisfied, including but not limited to local comprehensive plan and zoning ordinance provisions, where not addressed by statutory and rule requirements of the Oregon Department of Water Resources, the Oregon Department of Fish and Wildlife and any other applicable state or federal agencies.

(c) Nothing in this rule is intended to supersede OAR 660-013-0080(1)(f) and ORS 836.623 regulating water impoundments near airports.

(d) The approval of a water impoundment for agricultural use shall not, within one-half mile of the average annual high water line and without the approval of an exception to Goal 3 (Agricultural Lands) taken pursuant to ORS 197.732 and OAR chapter 660, division 4, be a basis for the subsequent approval of an on-site or adjacent water- or land-based:

(A) Park, campground, golf course or other recreational use as identified in ORS 215.213 or 215.283;

(B) Utility facility necessary for public service, other than a water impoundment for agricultural use;

(C) Commercial power generation facility; or

(D) Destination resort.