

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Land Conservation and Development Department

660

Agency and Division

Administrative Rules Chapter Number

Amendments to conform agency rules to new laws

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

In the Matter of:

Amendments to conform agency rules to new laws

Statutory Authority:

ORS 197.140; 195.145; 195; 197.215; 227

Other Authority:

Statewide Planning Goals (OAR 660, div 15)

Stats. Implemented:

ORS 195; 197; 215; 227; 2010 legislation: HB3647; 2011 legislation: HB 2131; 2132; 2154; 3225; 3290

Need for the Rule(s):

The proposed rule amendments are necessary to implement laws enacted by the 2010 and 2011 legislatures. The proposed amendments will revise existing rules as necessary to conform rule wording to new and revised state laws, and to ensure consistency between rules and statute.

The Commission may consider other minor or technical corrections to these rule divisions.

The proposed new rule at OAR 660-033-0040, regarding Soils Assessments by Professional Soil Classifiers, is a proposal to, in effect, renumber certain portions of the existing rule in OAR 660-033-0030 as a separate rule, without amending current content of that rule. Those rules were adopted by LCDC in December 2011 to implement 2010 legislation (HB 3647).

Documents Relied Upon, and where they are available:

Statewide planning goals (available from the agency). New legislation cited above (Available from the Oregon Legislature).

Fiscal and Economic Impact:

The proposed rule amendments (and new rule) will not have economic effects on business because the proposed amendments are not new provisions. Rather, they are necessary to conform agency rules to current statutes in effect, or that will take effect by the time the rule amendments are effective. The department cannot propose alternative rules that would achieve the underlying lawful governmental objective because the proposal is necessary to implement new laws. The proposed rule amendments are not substantially different than existing statutory requirements. As such, economic and property interests will not be adversely affected by the rule amendments.

Statutory provisions also require the agency to estimate the effect of proposed rules on the cost to construct a 1,200 square foot dwelling on a 6,000 square foot parcel (ORS 183.534). Amendments to OAR chapter 660, divisions 7 and 8 affect approval standards for dwellings. However, these rules implement statutes that will be effective regardless of whether these conforming rule amendments are adopted. As such, the proposed amendments would not affect approval standards for dwellings and thus will not affect the cost to construct a dwelling. To the extent that agency rules accurately reflect statutory requirements and therefore increase compliance with state law, some benefits will accrue to housing construction costs. However, those effects, which are expected to reduce housing costs, cannot be calculated.

ORS 183.335(2)(b)(E) and 183.530 require the agency to prepare a Housing Cost Impact Statement on a form prepared by the State Housing Council and incorporate that statement into this statement of need required by ORS 183.335(5) (See ORS 183.534).

Statement of Cost of Compliance:

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

The amendments will not have impacts to state agencies, units of local government and the public because the proposed amendments carry out new statutory provisions that will be in effect regardless of whether conforming rule amendments are made. Having rules that accurately reflect statutory requirements could affect local governments by increasing compliance, but this effect cannot be verified or calculated.

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:

The rules subject to this rulemaking will not affect small businesses and industries with small businesses because these amended rules would implement statutes that will be effective regardless of whether these conforming rule amendments are adopted. To the extent that agency rules accurately reflect statutory requirements and therefore increase compliance with state law, some benefits will accrue to housing construction costs. However, those effects, which are expected to reduce housing costs, cannot be calculated.

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

These rule amendments will clarify but will not change current compliance procedures and no professional service costs for small business are anticipated.

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

No additional costs of supplies, labor and administration are anticipated as a result of these rule amendments.

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

If not, why?:

Economic interests and property owners will not be affected by the amended rules for the same reasons described above for small businesses.

Administrative Rule Advisory Committee consulted?: No

Because these amendments are intended to simply reflect and conform to state law, and because small businesses were consulted in the process to enact the new state law, the department did not consult with small businesses in this housekeeping rulemaking.

01-26-2012 8:30 a.m.	Casaria Tuttle	casaria.r.tuttle@state.or.us	12-15-11 10:44 AM
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address	Date Filed