

STATEMENT OF NEED AND FISCAL IMPACT WORKSHEET

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Department of Land Conservation & Development

660

Agency and Division Name

Administrative Rules Chapter Number

RULE CAPTION

Adopt a new rule in OAR chapter 660, division 23 to provide land use protection for habitat of the Greater Sage-Grouse

In the Matter of: Providing land use protection for the Greater Sage-Grouse

Stat. Auth.:

ORS 197.040

Other Authority:

Statewide Planning

Goal 5

Stats. Implemented:

ORS 197.040

Need for the Rule(s):

This rule is needed to provide state land use policy concerning impacts to sage grouse habitat from actions by local county or other governmental authorities.

Documents Relied Upon, and where they are available:

Statewide Planning Goal 5, and a draft of the proposed rules are available from the department's rules coordinator. The department is located at 635 Capitol Street, NE; Salem, Or 97302. Rules are also provided on the DLCD website at <http://www.lcd.state.or.us>.

Fiscal and Economic Impact:

Proposed limitations on large scale development and other types of development could have an economic impact on ranchers and local governments in affect

ted counties, by limiting the scale and location of certain development. Having to respond to additional regulations can be challenging for business operations, particularly small businesses. Limiting opportunities for economic growth and development is not desirable. On the other hand, if this rule is acceptable to federal regulating agencies involved in listing of threatened and endangered species then it may help avoid a greater economic impact due to a federal listing under the Endangered Species Act. The proposed rule will provide certainty and has been carefully drafted to preserve the maximum amount of flexibility and self determination for local government.

No other additional information is available.

Statement of Cost of Compliance:

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

a. State agencies would be affected by these rules. State agencies that issue permits for activities on state and private lands (e.g., Dept of State Lands) would have to support and facilitate the required mitigation for permitted projects. Oregon Department of Fish and Wildlife district staff will be required to review projects proposed to occur in sage-grouse habitat areas. To date,

there have been very few development projects carried out in the seven-county area within the range of the greater sage-grouse. It is possible that the proposed rules could increase the number of project proposals for the area. However, the number of proposed projects, and thus the staff time needed to review them, cannot be determined. Overall, no major changes from the current levels of these agencies' operations or expenditures are expected to result from the adoption of these rules.

b. Units of local government that would likely be affected by this proposed rule are Baker, Crook, Deschutes, Harney, Lake, Malheur and Union counties. The rule will require those counties to review permit applications at a finer level of detail and to support and facilitate development that meets mitigation requirements for projects. The number of project proposals which may emerge after these rules are adopted cannot be determined and thus the magnitude of the impact on local governments cannot be determined. Overall, no significant changes from the current levels of any local agencies' operations or expenditures are expected to result from these proposed rules, but that will depend on the number of proposed projects and how individual counties manage development.

c. The public would likely be affected by the adoption of these proposed rules. The rule would allow developers the possibility of doing large-scale development projects in sage grouse core habitat on nonfederal lands, which was not always permissible under previous state policy. New development projects would bring some economic activity (e.g., jobs) to the seven-county area. Most work would likely be short-term, although there may be some long-term jobs associated with the projects. Also, developers will be required to pay the full cost of direct and indirect impacts through compensatory mitigation. Direct impacts are related to the actual footprint of the development project and indirect impacts relate to the project's effects on the use of habitat by sage-grouse. By requiring mitigation for project impacts, the proposed rules would create economic activity for mitigation work in the eight-county area (e.g., jobs to do juniper removal). Landowners (e.g., farmers, ranchers) may have the opportunity to gain additional income from lease or royalty payment arrangements with developers. Ranching activities are not expected to be impacted by the proposed rules.

Currently there are recreation activities related to sage-grouse hunting and wildlife viewing in the seven-county area. Travel-generated and local recreation spending related to hunting and wildlife viewing contributes to the local economies, though it is unknown what proportion of the economic contributions are directly or indirectly related to sage-grouse hunting and wildlife viewing. It is not known how potential future projects could affect sage-grouse hunting and wildlife viewing activities.

All the potential impacts to the public enumerated above will depend on the number of authorized projects and that number is unknown. In addition, given that each county manages development differently, the effect of the proposed rules on the development of projects will vary across counties. Overall, the impacts of these proposed rules on the public cannot be determined without knowing the number and location of projects.

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:

Local contractors and small businesses providing goods and services to people living in the seven-county area (e.g., accommodation businesses, food and beverage services, food stores, general merchandise or other retail stores) could be affected by the rule. Given the broad geographic reach of this rule, the number of small businesses affected by the rule cannot be estimated.

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

This rule could result in reporting/recordkeeping costs for project developers that would not currently exist for a project in the seven-county area. With the proposed in "lieu model", manager of funds would do the reporting. The Department of Land Conservation and Development will track developments in sage grouse areas over time and maintain a record. Those costs cannot be estimated since specific requirements for projects have not yet been developed.

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

No additional costs are anticipated

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

No small businesses were directly involved in the development of these rules but deliberations of proposed rules with county government, livestock producers and renewable energy advocates will take into consideration small business interests.

**Administrative Rule Advisory Committee consulted?: Yes
If not, why?:**