

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

FILED
10-15-15 10:21 AM
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Land Conservation and Development Department
Agency and Division

Casaria Taylor
Rules Coordinator

Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301
Address

660
Administrative Rules Chapter Number

(503) 373-0050, ext. 322
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RULE CAPTION

This rule will provide a baseline for monitoring disturbance in core sage-grouse habitat.

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

Hearing Date	Time	Location	Hearings Officer
12-3-15	8:00 a.m.	DLCD Basement Hearing Room, 635 Capitol St. NE, Salem, OR 97301	Land Conservation and

RULEMAKING ACTION

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

ADOPT:

AMEND:

660-023-0115(15)

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 197.040

Other Authority:

Statewide Planning Goal 5

Statutes Implemented:

ORS 197.040

RULE SUMMARY

This rule is needed to provide a baseline for monitoring disturbance in core sage-grouse habitat. Existing rules do not allow conflicting uses to exceed one percent of any core area in 10-year increments or an absolute total three percent of any core area. A disturbance baseline is necessary to allow state and local decision makers to adequately consider proposals for large-scale development in core areas of sage-grouse habitat. Failure to adopt a disturbance baseline will increase the legal vulnerability of state and local decisions.

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.

12-03-2015 Close of Hearing
Last Day (m/d/yyyy) and Time for public comment

Casaria Taylor
Rules Coordinator Name

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Email Address

*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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660
Administrative Rules Chapter Number

This rule will provide a baseline for monitoring disturbance in core sage-grouse habitat.

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

In the Matter of:

Providing land use protection for the Greater Sage-grouse

Statutory Authority:

ORS 197.040

Other Authority:

Statewide Planning Goal 5

Statutes Implemented:

ORS 197.040

Need for the Rule(s):

This rule is needed to provide a baseline for monitoring disturbance in core sage-grouse habitat areas. Existing rules limit disturbance from conflicting uses to one percent in any core area in 10-year increments or an absolute total three percent of any core area.

The U.S. Fish and Wildlife Service has determined that listing the greater sage grouse as an endangered species is not necessary. This decision was based in substantial part on Oregon's demonstrated program (State Action Plan and Executive Order) developed in cooperation with private citizens, local governments and federal agencies, in specified eastern and central Oregon counties. This rule proposal would add a disturbance baseline to OAR 660-023-0115, which the Land Conservation and Development Commission adopted on July 24, 2015. The disturbance baseline is necessary to measure development amounts into the future and to provide assurance to state and local decision makers.

The proposed rule revision is not expected to affect the building costs or the permitting of single family housing in the geographical areas affected by the rule. The rule defines and addresses how "large scale development" and "disturbance" are to be treated in sage grouse habitat, from a land use planning perspective. Development of a 1,200 square foot house on a 6,000 square foot lot is not expected to be affected by these terms in rule. To the extent that development of such a house could be seen as a "conflicting use" in application of the rule, it would still be allowed in an appropriate location.

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 97301. Rules are also provided on the DLCDC website at <http://www.lcd.state.or.us>.

Fiscal and Economic Impact:

The proposed revision is not expected to create a fiscal or economic impact. A disturbance baseline is necessary to allow state and local decision makers to adequately consider proposals for large-scale development in core areas of sage-grouse habitat. Failure to adopt a disturbance baseline could increase the legal vulnerability of state and local decisions.

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 stand to be affected by this revision only in that greater guidance for development actions in core sage-grouse habitat will be available. 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 revision are Baker, Crook, Deschutes, Harney, Lake, Malheur and Union counties. The revision will provide additional guidance for consideration of large-scale development in core areas of sage-grouse

habitat.

c. The public would stand to be affected by the adoption of the proposed revision only in that greater guidance for development actions in core sage-grouse habitat will be available.

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 rule does not directly subject small business and industries to regulation. The department has no existing information for the seven county area regarding the number or type of businesses and industries that might interact with future "large-scale development" in core sage-grouse habitat areas.

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

No additional compliance activities, including costs are anticipated.

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?: No

If not, why?:

The revision is being pursued based on testimony provided by county government at LCDC's July 23 & 24 meeting in Burns, Oregon.

<u>12-03-2015 Close of Hearing</u>	<u>Casaria Taylor</u>	<u>casaria.taylor@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534) *FOR ADMINISTRATIVE RULES*

AGENCY NAME:

Department of Land Conservation and Development

ADDRESS: 635 Capitol Street NE, Suite 150

CITY/STATE: Salem, Oregon 97301

PHONE: (503) 373-0050, ext 229

PERMANENT:

TEMPORARY:

HEARING DATES: December 3, 2015

EFFECTIVE DATE: Upon filing

**BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL
RESULT FROM THIS PROPOSED CHANGE.**

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

This rule will provide a baseline for monitoring disturbance in core sage-grouse habitat.

Description of the need for, and objectives of the rule:

The U.S. Fish and Wildlife Service has determined that listing the greater sage grouse as an endangered species is not necessary. This decision was based in substantial part on Oregon's demonstrated program (State Action Plan and Executive Order) developed in cooperation with private citizens, local governments and federal agencies, in specified eastern and central Oregon counties. This rule revision proposes would add a disturbance baseline to OAR 660-023-0115, which was adopted on July 24, 2015. The disturbance baseline is necessary to measure development amounts into the future and to provide assurance to state and local decision makers.

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List of rules adopted or amended:

OAR 660-023-0115

Materials and labor costs increase or savings:

None expected

Estimated administrative, construction or other costs increase or savings:

None expected

Land costs increase or savings:

None expected

Other costs increase or savings:

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

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