

STATEMENT OF NEED AND FISCAL IMPACT

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

Department of Land Conservation and Development

660

Agency and Division

Administrative Rules Chapter Number

Amendment of LCDC rules to clarify review process for wind projects on farmland.

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

In the Matter of: Amendment of LCDC rules to clarify review process for wind projects on farmland.

Statutory Authority: ORS 197.040

Other Authority: ORS 215.213 and 215.283

Stats. Implemented: ORS chapters 197 and 215

Need for the Rule(s): The Department believes the Commission's existing rules were established to limit the siting of conventional gas and coal power generating facilities with large consolidated acreage requirements on agricultural lands, except in limited circumstances where an exception to Statewide planning Goal 3 is justified. The applicable provisions of OAR Chapter 660, division 33, do not appear to anticipate the development of wind energy sources. A limited rulemaking effort to provide additional clarification and guidance on this subject would benefit future applicants and decision-makers, as well as citizens, farmers and others affected by wind power decisions. Further, rule amendment will help advance energy independence and the Governor's initiative on reducing climate change by promoting alternative energy use.

Documents Relied Upon, and where they are available: ORS chapters 197 and 215, Statewide Planning Goal 3, OAR 660-033. These documents are available on the Agency's web site at <http://www.oregon.gov/LCD/index/shtml> or by contacting Bryan Gonzalez at the Department of Land Conservation and Development at 503-373-0050, ext. 322.

Fiscal and Economic Impact: Statutory provisions (ORS 183.335(2)(b)(E) and (G) and 183.540 require the Agency to consider whether a proposed rule amendment will have any significant economic impact on business and whether options should be considered to reduce any negative impacts of the rule on business. The proposed amendments to the rules would update, clarify and in some cases streamline the review process for wind projects. This will likely have a positive economic impact on both wind developers and farmers. In other cases the review process may be made more appropriate but also more predictable. On balance, this is anticipated to have a neutral impact on wind developers and a positive impact on farmers and farmland. As there is currently confusion as to how the current standards apply to wind projects, there is good consensus that rule amendments are needed and will have a positive impact on involved businesses.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): The proposed amended rules will provide economic benefits to local governments, the public and farmers through royalty payments, enhanced tax revenues and increased predictability of review standards that will be facilitated by rule amendment. While counties will need to make minor amendments to local regulations, these will, on the whole, be offset by increased potential revenues from the development of wind energy resources. There is no anticipated cost to state agencies created by the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: The proposed amended rules will provide potential economic benefits to small to large wind companies and support businesses by increasing the predictability of review standards and providing some streamlining of the review process. In some cases, larger businesses may incur a slightly increased cost of compliance due to enhanced review standards intended to mitigate potential adverse impacts on farmland. This is anticipated to be counterbalanced by the protection of economic farmland values through mitigation requirements. It is not possible to estimate the number of businesses that could be affected, though it is narrow in scope.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The proposed rule amendments are not anticipated to increase costs in this area.

c. Equipment, supplies, labor and increased administration required for compliance: There may be some minor increased levels of equipment, supplies, labor and administration needed for wind energy developers for some types of projects.

How were small businesses involved in the development of this rule? The proposed rules were developed with the assistance of a committee that included a broad range of interests, including advocates for wind energy development and wind energy companies. The Department also provides broad notice of the proposed rules to interested parties and on its web site.

Administrative Rule Advisory Committee consulted?: Yes; the committee (see above) was actively involved in the development of the proposed rule changes.

If not, why?: NA


Signature

Bryan Gonzalez 10/15/08
Printed name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007