



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED
02/24/2022 4:30 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Climate friendly and equitable communities rulemaking

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/19/2022 8:45 AM

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.

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 03/31/2022

TIME: 8:30 AM

OFFICER: LCDC

ADDRESS: Virtual Hearing
no address

Salem, OR 97301

SPECIAL INSTRUCTIONS:

View the department's website on how to participate <https://www.oregon.gov/lcd/Commission/Pages/Meetings.aspx>

DATE: 05/19/2022

TIME: 8:30 AM

OFFICER: LCDC

ADDRESS: Virtual Hearing
635 Capitol St.

Commission Room

Salem, OR 97301

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NEED FOR THE RULE(S)

On March 10, 2020, Governor Kate Brown issued Executive Order 20-04, directing agencies to reduce climate pollution. The Land Conservation and Development Commission is working on updating Oregon's Transportation Planning Rules and related administrative rules in response to this order. The Department of Land Conservation and Development (DLCD) initiated the Climate-Friendly and Equitable Communities (CFEC) rulemaking in September 2020.

The rulemaking will significantly impact Oregon's rules regarding transportation and housing planning, particularly in

the eight areas with populations over 50,000 people (Albany, Bend, Corvallis, Eugene/Springfield, Grants Pass, Medford/Ashland, Portland metro, Salem/Keizer). Some of the rules will also apply to and/or impact communities outside of these areas.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Governor's Executive Order 20-04 <https://www.oregon.gov/gov/Pages/executive-orders.aspx>

Statewide Transportation Strategy as adopted by the Oregon Transportation Commission in 2017

https://www.oregon.gov/odot/Planning/Documents/Oregon_Statewide_Transportation_Strategy.pdf

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The State of Oregon requires that a rulemaking notice include "a statement identifying how adoption of the rule will affect racial equity in this state" (ORS 183.335(2)(a)). Racial equity is a process of eliminating racial disparities and improving outcomes for Black, Indigenous, and other persons of color (BIPOC). It is the intentional and continual practice of changing policies, practices, systems, and structures by prioritizing measurable improvements in the lives of members of BIPOC populations. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities.

The proposed rule changes are extensive, and many directly reflect an increased concern with racial equity and equitable outcomes. The scope of the rule changes will impact most Oregon residents, with mandated efforts to engage and involve groups specifically identified as "underserved populations," which includes, but is not limited to BIPOC individuals (OAR 660-012-0120). The new equity analysis requirement is intended to assess and analyze future decisions in considering their impact on underserved populations, and to develop strategies to increase equity and/or minimize unintended consequences (OAR 660-012-0130). Performance standards and the prioritization framework for TSPs have been modified to include racial equity standards and improving equitable outcomes for underserved populations (OAR 660-012-0170 & 660-012-0180).

The expanded outreach to underserved populations required in the new rules would be expected to identify and clarify areas of impact, concern, and adverse consequences of future transportation planning efforts. The required equity analysis (OAR 660-012-0130) is intended to ensure that land use and transportation plans improve outcomes for underserved populations, which would determine benefits and burdens on underserved populations. There is limited precedent for this type of analysis and methodological approaches are still evolving. The defined requirements are broad and in practice may be difficult to assess with rigor, but over time best practices would be expected to emerge consistent with budgetary and data limitations.

The rule changes reflect an increased focus on climate pollution reduction, and the targeted reduction in pollution and emissions will have broadly positive impacts for residents in the state. Pollution has been demonstrated to have a disproportionately negative impact on lower income residents and many BIPOC communities. The defined underserved population includes low-income and low wealth communities but is not limited to those communities. Nonetheless, demographic data indicates that many underserved populations will constitute a disproportionate percentage of lower income households.

The clear intent of the rule changes is to promote racial equity and equitable outcomes. Additional outreach, changes in prioritization, and specific equity study requirements are supportive of those goals. Many of the new rules to address racial equity will extend planning periods and increase costs, which could negatively impact underserved populations by delaying new transportation investments and/or reducing the available investment amounts. Conversely, improved engagement with underserved populations, and prioritization of transportation improvements to serve those populations, is expected to result in improved transportation facilities and services for these communities. Impacts on mobility can be regressive as transportation costs represent a higher percentage of overall expenditures for lower income households. This is particularly true when lower income households are dependent on motor vehicle ownership

to meet transportation needs. The new rules place a greater emphasis on alternative modes of transportation, with facilities and services that are anticipated to improve over time. While there may be some level of unintended consequences, we expect that the rules will further racial equity objectives. Over time the monitoring process outlined in the new rules should allow for recalibration of the rules if significant negative outcomes are identified.

FISCAL AND ECONOMIC IMPACT:

The Climate-Friendly and Equitable Communities (CFEC) Draft Administrative rules may result in fiscal and economic impacts including:

- Compliance costs, both monetary and time-related, for local governments to amend local development regulations for consistency with the draft rules and for DLCD to review those amendments.
- Potential increased costs and/or reduction in the efficiency of transportation systems for some users as additional performance criteria are introduced into the transportation system assessment.

The anticipated fiscal and economic impacts in each of these categories are discussed in more detail below.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

DIVISION 8 HOUSING

SMALL AND LARGE BUSINESSES

The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly.

LOCAL GOVERNMENT COSTS

The new rules require cities over 10,000 population within metropolitan areas to establish "climate friendly areas" that must be zoned to accommodate at least 30% of housing needs. Cities with a population between 5,000 and 10,000 in metropolitan areas would be required to designate at least 25 acres as a "climate friendly area." Additionally, the rule requires the same cities, if expanding an urban growth boundary based on residential land needs after June 30, 2027, to designate additional climate friendly areas sized to accommodate an equivalent number of housing units to 50% of the residential units that could not be accommodated within the existing urban growth boundary. The amended language establishes requirements to promote the production of affordable housing, mitigate or avoid the displacement of specified protected classes, and removing barriers to housing choice for these classes in climate friendly areas or within Region 2040 Centers in the Portland metro area.

The fiscal impact of these changes will be limited to affected jurisdictions. The establishment of climate friendly areas and need to comply with the new residential capacity calculations to meet the requirements of the mandate will entail an increase in both time and cost of completing a periodic Housing Capacity Analysis. Demonstration of compliance will be included in each subsequent Housing Capacity Analysis. In addition, new development codes will be needed in most jurisdictions to implement the climate friendly area requirement. Changes to the Housing Production Strategy Report guidelines will also increase time and cost requirements for jurisdictions.

The incremental increase in time and cost can vary substantively between individual jurisdictions, depending upon previous planning efforts, historic development patterns, current BLI characteristics, demographic patterns, and characteristics of projected housing demand. The fiscal impact on an individual city will vary depending on these factors, as well as how the city chooses to comply with the proposed rules. The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city.

Given the range of options available to affected jurisdictions, it is difficult to estimate the exact fiscal impact. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs

imposed in that city for the process of formally adopting any amendments. The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis.

The rules also require, before adopting of any such amendments, that jurisdictions provide for DCLD review of proposed changes. This is also anticipated to have a fiscal impact on both jurisdictions as well as DCLD.

STATE AGENCY COSTS

The proposed Division 8 rules are expected to have a substantive fiscal impact on only DCLD among state agencies. DCLD staff will be responsible for the review of Housing Capacity Analyses and Housing Production Strategy Reports to assure compliance with the updated rules. Agency review of these reports was already necessitated by the passage of HB 2003 in 2019, but additional staff effort is expected due to the lack of prior precedent studies, the increased complexity of housing analysis, and the range of requirements and standards that staff will need to analyze. The agency already has increased staff capacity to manage these reviews.

Additionally, there is the potential for DCLD to incur Department of Justice legal fees in situations where DCLD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DCLD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

The fiscal impact to DCLD is difficult to estimate due to the complexity of the issues involved. DCLD staff will be required to review comprehensive plan documents and land use development code, housing needs and capacity analysis, and housing production strategies in a wide range of market and geographic contexts. The agency will also need to provide financial and technical assistance to the local governments administering the proposed rules. DCLD should anticipate that additional staff capacity will be required to implement and maintain the program.

PUBLIC

The housing rules are limited to the designation of climate friendly areas and the allocation of additional housing capacity to those areas. Although the zoning of climate friendly areas could result in the displacement of underserved populations who may reside in these areas, the required proactive analysis of the potential for displacement and identification of mitigation strategies to address potential displacement will help to avoid or mitigate such negative impacts. The public would not be directly impacted by these rules. The costs incurred by local jurisdictions and state agencies may reduce resources available for other uses, but this impact is expected to be negligible.

DIVISION 12: TRANSPORTATION

The Division 12 Transportation rules have been significantly altered and expanded in this rulemaking exercise. The marginal shift is reflected in the updated purpose statement (OAR 660-012-0000), which has been modified to substantively increase the emphasis on alternative transportation options, underserved populations, safety, and climate pollution reduction. These changes are reflected throughout the remainder of the rule changes.

A range of new rules are proposed under Division 12, which establish and clarify requirements for preparing, adopting, amending, and implementing local transportation system plans (TSPs). The new rules reflect the shift in focus outlined in the purpose statement. New requirements in TSPs include an expanded engagement process and equity analysis. The rules define "underserved populations" for transportation and land use planning.

The projected reduction of Vehicle Miles Traveled (VMTs) per capita will be required in any new TSP, with VMTs used as a proxy for emissions. Project ranking and prioritization will focus on alternative modes and incorporate equity and reducing climate pollution in performance standards.

Parking rules have been changed to reduce parking requirements and require the installation of Electric Vehicle (EV) charging infrastructure for new construction. The focus on EV infrastructure reflects climate objectives and a goal to have EVs represent 90% of new vehicles, and 50% of all vehicles, by 2035. While most EVs will still lead to emission of non-point-source pollution, future adjustments may be needed to how VMTs are calculated as a proxy for emissions. A series of rules is also proposed that pertain to metropolitan areas, and address pedestrian, bicycle, public transportation, and streets and highway systems. The rules provide guidance for planning, minimum requirements, determination of projects, and consideration of options.

OAR 660-012-0830 outlines a significant change in the review of transportation facilities that could increase climate pollution. The process is intended to encourage local governments to identify, review, assess, and potentially implement alternatives to these types of facilities.

SMALL AND LARGE BUSINESSES

The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly. Businesses may be impacted by changes over time in transportation infrastructure, which may either increase or decrease the ability of the system to meet business needs in some instances. This would predominantly apply to freight traffic, which while not specifically addressed in the proposed rules does utilize the same transportation facilities as light vehicles. Any increase in congestion could impact freight mobility. For many jurisdictions in the state that are not served by rail or navigable waterways, trucks are the only freight alternative. Conversely, if VMT per capita reduction goals are achieved, reduced congestion from light-duty vehicle traffic may improve the efficiency of freight transportation.

As the impact on freight is correlated with the success of the rule changes in achieving a reduction in VMT per capita, an ongoing monitoring and feedback system could help identify issues quickly. The expected success of these programs is likely to vary substantively at the jurisdictional level.

EV infrastructure requirements in new construction of commercial buildings will also increase costs, which may be reflected in an increase in lease rates for commercial space. Businesses may also benefit from the proposed changes depending upon the nature of their operations and transportation requirements. Requirements for trees or solar panels in new surface parking lots larger than one-quarter acre will increase costs in areas where such local requirements do not already exist.

LOCAL GOVERNMENT COSTS

Local governments are expected to incur an increase in costs in the preparation of local or regional transportation system plans. The requirement for these plans is changed substantively, as are rules directing how local governments in metropolitan areas prepare and coordinate local TSPs. The Division 12 rules require study and adoption of climate friendly areas, adopt land use requirements for these areas, and comprehensive plan element by June 30, 2024 (OAR 660-012-0012).

Preparation of TSPs consistent with the proposed rules is expected to be more costly and take a greater length of time to prepare and adopt. Timing will be impacted by the expanded engagement process and required equity analysis, both of which will also entail an increase in cost. While the requirements of an equity analysis are provided in OAR 660-012-0135, there are limited prior examples and precedent for these studies. The cost and time required to prepare this type of analysis is difficult to estimate and will vary substantively by jurisdiction.

Mass transit, transportation, airport, and port districts will be required to participate in the TSPs and prepare and adopt plans. There will be a financial and time cost associated with this for these agencies. Additional costs associated with TSP preparation may lower the resources available to fund projects. Additional financial costs to local jurisdictions and service providers may be offset by additional grant funding from the State, but jurisdictions will incur costs associated with preparing grant applications.

New TSPs will need to establish vehicle miles traveled (VMT) reduction targets, and a TSP can only be adopted if the projected VMT per capita at the horizon year is lower than the estimated base year. As provided in OAR 660-012-0165(3), the performance targets for cities and counties must now include increasing transportation choices, avoiding principal reliance on the automobile, and reducing transportation-related climate pollution. The impact of these shifts in criteria is expected to vary significantly by jurisdiction and geographic location. Jurisdictions that rely upon fuel taxes as a revenue source would be impacted if the VMT targets are met. The VMT per capita reduction over the planning horizon is still expected to result in marginally higher overall VMTs based on population growth projections, but the growth in expected fuel tax revenues would be projected to be lower. These same revenue streams would also be impacted by increased EV adoption.

Oregon's Department of Environmental Quality Climate Protection Plan will also have a substantive impact on expected gas tax revenues, which may lead jurisdictions to move to other sources of revenue to fund transportation

projects.

The evaluation criteria for new projects would be shifted to emphasize alternative transit options, equity, safety, and pollution reduction. The transportation prioritization framework (OAR 660-012-0180) outlines the updated criteria. Incorporating these factors into project selection and prioritization would be expected to yield a reduced level of transportation system performance based on traditional metrics, which would be offset by expected gains in less quantifiable metrics. The new criteria will optimize the system for a broader range of variables. System development charge (SDC) revenues are limited in use to capacity-adding improvements. It is unclear but seems likely that the new project prioritization approach will limit these types of improvements in the future, with an additional level of review required under OAR 660-012-0830). However, it is likely that over time, SDC programs would expand support for infrastructure improvements for other transportation modes, such as transit, bicycle, and pedestrian improvements, which would more easily qualify for funding.

There are significant rule changes addressing parking (OAR 660-012-0400 to 0450). The proposed new rules would mandate an increased level of electrical infrastructure to accommodate the installation of Level 2 charging stations. The intent of the new rules is to increase access to charging infrastructure by requiring investment during new construction. We do not expect this change to have a substantive cost on local governments. The rules also requires that cities and counties adopt rules on surface parking lots, including the provision of either solar panels or tree canopy on lots more than an acre in area. The cost of new surface parking is expected to increase significantly from these new requirements. The cost to local governments is associated with preparation and adoption of the necessary code language and may also include higher construction and operational costs if the jurisdiction develops new surface parking for public use.

Rule changes such as the EV infrastructure and surface parking requirements are expected to increase costs for both public- and private-sector development. This would be offset to some extent by reduced parking requirements for new development where the market will accept lower parking ratios than currently mandated. Local governments would be impacted directly if costs for public facilities were increased but may also be indirectly impacted by the increase in cost on private development activity. Higher development costs would be expected to place pressure on revenues (rents) and/or land values. This may affect the rate of redevelopment and the level of market intervention required to achieve desired development patterns.

The incremental increase in time and cost can vary substantively between individual jurisdictions, depending upon previous planning efforts, transportation system characteristics and needs, demographic patterns, and characteristics of projected housing demand. The fiscal impact on an individual city will vary depending on these factors, as well as how the city chooses to comply with the proposed rules. The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs imposed in that city for the process of formally adopting any amendments. The total cost could be higher for jurisdictions that conduct extensive public outreach or additional technical analysis. Some jurisdictions may also have a greater level of difficulty meeting requirements in climate friendly areas. As an example, jurisdictions in central Oregon will need to consider issues such as winter snow storage and removal.

It is not clear how the change in TSP rules and requirements will impact existing transportation planning efforts. Jurisdictions may have significant investments in prior planning efforts overridden by the new requirements. This may require additional planning efforts to replace or modify existing plans to conform to the new rules. The rules also require, before adopting of any such amendments, that jurisdictions provide for ODOT and DCLD review of proposed changes. This is also anticipated to have a fiscal impact on both jurisdictions as well as ODOT and DLCD.

STATE AGENCY COSTS

The proposed Division 12 rules are expected to have a substantive fiscal impact on ODOT and DLCD among state agencies. ODOT will be responsible for preparation, adoption, and maintenance of a state TSP. In addition, both ODOT and DLCD staff will be responsible for the review of local transportation system plans, equity analysis, and planning documents.

The agencies will be expected to offset many of the anticipated cost increases to counties and cities through planning

and technical grants. The direct cost of these grants will be significant as will the staff time required for grant application review and ongoing grant administration. Both ODOT and DLCD should anticipate that additional staff capacity will be required to implement and maintain the new TSP requirements. As a transportation facility provider, ODOT will also have a role in the development of Highway Impact Summaries required in conjunction with the zoning of climate friendly areas, as well as in the VMT-increasing facility review process.

If the rule changes are successful in reducing VMTs then transportation user fee revenues would be expected to drop. In addition, if the State succeeds or progresses towards meeting its' EV adoption goals, fuel tax revenues would be expected to drop significantly.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

PUBLIC

The transportation rules are extensive, but effectively limited to TSP requirements and project prioritization. The public would not be directly impacted by compliance with these rules, but the resulting change in transportation infrastructure investment may have an impact. As with businesses, the nature of the impact may be positive or negative depending upon transportation system needs of individuals. The costs incurred by local jurisdictions and state agencies associated with compliance with the new rules may reduce resources available for other uses.

Although transit agencies are outside the direct jurisdiction of the rules, adoption of the rules will have significant impacts for transit agencies within the eight metropolitan areas. While the rules call for increased support and planning coordination with transit agencies, there will be a greater need for planning and participation by transit agency staff.

The public would be expected to benefit from the targeted reduction VMTs, which have been correlated with air pollutants and health impacts, fatalities and injuries, congestion, and transportation costs.

DIVISION 44: METROPOLITAN GREENHOUSE REDUCTION RULES

The purpose of this division is to significantly reduce climate pollutants from light vehicles. New rules include a revised purpose statement, schedule, and work program for scenario planning, required contents for a scenario plan, and department and commission review. The new rules require the preparation of transportation and land use scenarios that define and implement a preferred scenario, identification of performance measures to track progress, and adoption of measures that avoid and/or mitigate impacts to underserved populations as well as improving outcomes over time.

This division implements Oregon Land Use Planning Goal 12 (Transportation), and the stated goal in ORS 468A.205 to reduce greenhouse gas emissions. Many of the rules initially included in Division 44 have been moved to Division 12.

The rules expand the scenario planning requirements to cities and counties beyond the Portland metro area. It provides dates for cities and counties in the Eugene-Springfield metro area to adopt and implement the preferred scenario from a regional alternatives planning effort completed in 2011-15. It also provides compliance dates for the Salem-Keizer metro area to undertake scenario planning. Other regions are allowed to voluntarily opt into the regional planning program.

SMALL AND LARGE BUSINESSES

The geographic scope of the Division 44 changes is limited to three metropolitan areas in the state. The impact on small and large businesses are not expected to incur compliance costs, as the proposed rules do not apply to businesses directly. Businesses may be impacted by changes over time in transportation infrastructure, which may decrease the ability of the system to meet business needs in some instances. The scenario planning requirements may increase congestion on roadways shared by both light vehicles and freight, which could negatively impact a wide range of businesses as well as the public. Freight mobility has been under increasing stress due to a rise in just-in-time inventory management and online retail, and the importance of supply chains has been a significant business factor in the last year. Conversely, if VMT per capita reduction goals are achieved, reduced congestion from light-duty vehicle traffic may improve the efficiency of freight transportation.

A subset of businesses may also benefit from the proposed changes. The impact on individual businesses is expected to be highly variable depending upon the nature of their operations and transportation requirements.

LOCAL GOVERNMENT COSTS

The fiscal impacts on local governments would be limited to the geographic areas required to conduct scenario planning (the Portland, Eugene-Springfield, and Salem-Keizer metro areas). The impacted cities and counties submit a work program, prepare a scenario plan, and adopt those plans. The rules establish emission reduction targets for the Portland metro and other metro areas.

The land use and transportation scenario planning work will need to be completed by the Eugene-Springfield and Salem-Keizer metro areas. There will be a direct fiscal cost to affected jurisdictions to conduct these planning efforts. This would include staff time and may include the hiring of outside consultant to assist in preparation. The cost of the planning effort may be offset by grants, but preparation of grant applications will also represent a related cost. ODOT and DLCDC have identified funding to support scenario planning in Eugene-Springfield and Salem-Keizer.

The plan will need to be reviewed by DLCDC, and when approved they would need to be adopted through an amendment to impacted jurisdictions' comprehensive plans. Local costs will be incurred during the review and adoption process.

The rules under Division 44 are not expected to impact local government revenues substantively. As with the Division 8 rules, the additional emphasis on climate goals and underserved populations may yield an optimal scenario that is more costly relative to gains in function than one with a more limited number of prioritization variables.

The city may conduct the required analysis internally or with the assistance of a professional consultant, either of which would incur additional costs to the city. The cost a city incurs would also depend on the extent of opportunities the city provided for public comment and the costs imposed in that city for the process of formally adopting any amendments.

STATE AGENCY COSTS

The proposed Division 12 rules are expected to have a substantive fiscal impact on DLCDC and ODOT, with staff responsible for the review of local land use and transportation scenario planning.

The agencies will be expected to offset many of the anticipated cost increases to counties and cities through planning and technical grants. The direct cost of these grants will be significant as will the staff time required for grant application review and ongoing grant administration. DLCDC and ODOT should anticipate that additional staff capacity will be required to implement and maintain the new scenario planning requirements. As the planning mandates under this division expand the requirements to only two additional metropolitan areas, the required staff time should be more limited than for the other divisions.

As noted with in the Division 8 discussion, if the rule changes are successful in reducing VMTs to the targeted levels, then transportation user fee revenues would be expected to drop commensurately. This would lead to a significant loss of revenue for ODOT. Freight traffic is not targeted by the rules but could also be impacted by the change in prioritization of projects. The additional time required for the TSP planning process has the potential to impact ODOT's ability to obtain federal funding for selected projects. This is not something that can be reliably quantified in advance, but federal infrastructure financing is often time sensitive. Potential changes to transportation planning and funding at the state and federal level could mitigate these concerns.

Additionally, there is the potential for DLCDC to incur Department of Justice legal fees in situations where DLCDC files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCDC also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level.

PUBLIC

The geographic scope of the changes in this division is limited to three metropolitan areas in the state. The public would have no direct compliance requirements. The public may be impacted by changes over time in transportation infrastructure, with individual impacts expected to be highly variable depending upon the nature of transportation requirements. The new rules specifically target outcomes for underserved populations, and impacts would be expected to be more positive for these populations.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Included in Cost of Compliance section

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

The proposed rule changes will impact portions of the housing market, and as a result may have an impact on the cost of developing housing and home pricing (rents/purchase prices). Division 8 rules directly address housing production and require a housing production strategy report to be completed. This report can provide necessary feedback to assure that impacts on housing are understood and addressed.

The following is a summary of key components of the proposed rules that would be expected to impact residential markets:

- Climate Friendly Areas – The allowable zoned density is expected to be relatively high in designated climate friendly areas. This could lead to higher density housing products to account for an increased share of new housing production. The rules envision that these areas would provide strong connectivity and a mix of housing, jobs, and services.
- Equity Analysis – This is a new rule requiring the completion of an equity analysis, to identify impacts of proposed projects and policies and potentially inequitable consequences and burdens on impacted communities. These analyses will include the development of strategies to create greater equity or minimize unintended consequences.
- Parking Requirements – Reduction in required on-site parking, EV charging infrastructure mandate, and bike parking requirements. In addition, new rules regarding surface parking could impact the price of providing this amenity. Only the reduction in on-site parking would impact the reference case development.
- Housing Production Strategy – Cities with populations greater than 10,000 will prepare and adopt a Housing Strategy Report. This report will include a list of specific actions to promote development within the city to address identified housing needs. The report must also address how the city will create compact mixed-use neighborhoods available to member of identified protected classes, the production of affordable housing, removal of barriers and increased housing choice for protected classes, and within climate friendly areas.

The reference case for this analysis is a 1,200 square foot single family home on a 6,000 square foot lot. Minimum density requirements in climate friendly areas will preclude single family residential homes, although some middle housing products may be possible for cities with populations less than 25,000 (OAR 660-012-0320). In jurisdictions in which the reference home configuration is prohibited on at least 30% of its residential capacity, there may be a shortage of available capacity for this type of housing relative to demand (although the housing needs analysis and/or production strategy should prevent this outcome). Cities will be required to continue to plan to meet all residential land needs based on anticipated demographics such as household size and income, and on recent development trends.

The proposed changes can impact the cost of housing through the cost of production and market pricing power.

Reductions in required parking ratios can significantly reduce development costs in situations where the market-required parking is lower than that mandated in zoning. While the provision of EV infrastructure and bike parking can increase costs, this is not relevant to the reference case housing type.

The Housing Production Strategy process for jurisdictions larger than 10,000 population can address specific issues for individual jurisdictions and segments of the market.

The equity analysis is not expected to directly impact housing prices for the reference product, but strategies emerging from this analysis may have an impact on residential pricing.

In summary, the rules would be expected to have a negligible impact on home pricing for a 1,200 square foot home on a 6,000 square foot lot. The inclusion of the Housing Production Strategy process should allow for larger jurisdictions to calibrate their policies and programs to mitigate against escalatory pricing impacts on housing.

RULES PROPOSED: