

Draft Agency Thoughts on Rulemaking for Issues Addressed at RAC Meetings

Below are initial thoughts from agency staff on language to address some of the issues raised at the first two RAC meetings. The July 18th RAC meeting will be devoted to a discussion of these initial thoughts on rule language.

Rule Language to clarify when a farm stand is a “farm use” and when it requires a farm stand permit.

There seemed to be broad support among RAC members for clarifying when certain activities are a ‘farm use’ which is allowed without a permit review and when a farm stand permit is required. We heard a desire on the part of RAC members to clarify when educational activities and tours are permissible as a farm use.

Several proposals were received from the public. There seems to be general agreement that educational activities for which no fee is charged may be permitted as a farm use.

Suggestion:

Possible rule language:

“A temporary structure designed and used only for the sale of farm crops and livestock grown on the farm operation is not a farm stand for purposes of this rule. Low-intensity, infrequent activities, such as educational farm tours, for which no fee is charged or collected do not require a farm stand approval.”

“As used in this section “temporary structure” includes structures such as tents, canopies, chairs, benches and tables that are sited and used on the property for no more than 90 days in a calendar year. “Temporary structure” does not include food trucks.”

Provide an agency guidance document or memo post rule-adoption with examples such as the following:

- Approve as a “farm use” proposals that do not involve selling processed foods, retail items, produce from other farms or developing structures.
- A temporary structure such as a roadside table and tent canopy selling farm crops and livestock produced on the hosting farm is a “farm use”.
- A u-pick operation supported by a table and temporary tent canopy for weighing produce and collecting money is a “farm use”.

Local Agricultural Area

A farm stand may sell farms crops and livestock, including processed crops and livestock, grown on the hosting farm and from the “local agricultural area”. “Local agricultural area” currently includes the state of Oregon and counties in neighboring states adjacent to the county reviewing the farm stand. This means, for example, a farm stand in Union County may sell wine produced in Yamhill county as a farm crop. The current definition was adopted by LCDC in 2006. Some RAC members felt that this definition is overly broad and not aligned with the original legislative intent for the farm stand authorization. Other RAC members expressed appreciation for the current definition noting that the broad definition allows them to offer products year-round.

“Local Agricultural Area” is defined in rule (OAR 660-033-0130(23)(d)):

(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.

This section was added to rule in 2006. A number of RAC members expressed verbal and written support for the current version of the rule and like the flexibility to be able to offer a wider range of products, particularly in the off-season. Members shared that the diversity allows them to keep employees during the off-season.

Other members expressed a belief that the legislative intent was for products being sold at farm stands to be sourced from a more localized area. These members are advocating for adoption of a narrower definition. Several proposals were received for language that would narrow the definition of “local agricultural area”.

Suggestion:

If no change to this section of rule is included in the Notice of Proposed Rulemaking, LCDC would be precluded from making any changes to this section of rule during the hearings process.

Possible rule language:

“Local Agricultural Area” is defined in rule (OAR 660-033-0130(23)(d)):

(d) As used in this section, "local agricultural area" includes Oregon. or an area in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located and is within 50 miles of the Oregon state boundary.

Retail Item Limitations

Some RAC members proposed clarifying the relationship between incidental retail items sold at a farm stand and farm crops and livestock sold at the farm stand. The concept was brought up during the first RAC meeting and did not engender much discussion.

Suggestion:

“As used in this section “retail incidental items” are items with a direct relationship to the farm crops or livestock sold at the farm stand and which are intended to promote the sale of farm crops or livestock sold at the farm stand. Such retail incidental items may include, but are not limited to, vases for flowers grown on the site, carving kits for pumpkins grown on site, t-shirts advertising the farm itself.”

Provide an agency guidance document or memo post rule-adoption with examples such as the following:

retail incidental items may:

- *utilize one or more of the farm products as an ingredient, such as sauces and chutneys or beeswax candles,*
- *feature the farm or its products in an artistic rendering such as greeting cards, kitchen towels, t-shirts or hats,*
- *be items that are associated with the farm product, such as melon scoopers, flower vases, or pumpkin carving kits.*

The relationship between promotional activities and farm stand products

Statute allows “fee-based activity to promote the sale of farm crops or livestock sold at the farm stand”.

There are a variety of opinions on how direct the relationship between the promotional activities and the farm stand products should be. The agency received several proposals for language that would clarify the necessary relationship between the activities and farm crops and livestock sold at the farm stand. The agency has also heard that there is a need to clarify how fee-based educational activities may be permitted and that examples of allowable activities would be useful.

The agency posed a number of questions to RAC participants concerning clarifications on events that are allowable at farm stands as opposed to events which require other permits such as an agritourism and other commercial event permit. There is a variety of opinion on this topic with some members advocating for more restrictions and others advocating for

more flexibility. It is important to note that permits for 18 to 54 days of agritourism and other commercial events do require a farm impacts test that allows an opportunity for public comment. As a sub-1 use, farm stands are assumed to be compatible with agricultural operations in the surrounding area and do not require a farm impacts review. The agency is proposing that if a farm stand wishes to host more than 17 farm-to-table meals in a calendar year, such events should be reviewed under the requirements for an agritourism and other commercial events permit. The limitation does not apply to other types of promotional activities.

Suggestion:

“As used in this section a “promotional activity is an activity that encourages the sale of farm crops or livestock sold at the farm stand by featuring that product or products as the primary focus of the activity or educates visitors on the agricultural practices being conducted on the farm. Such activities may include, but are not limited to, flower arranging classes at a farm stand that sells cut flowers, fee-based tours, cooking demonstrations using farm products sold at the farm stand, product sampling or tasting, and rides to or through crop fields. Occasional farm-to-table meals, up to seventeen days in a calendar year, may be hosted outside of farm stand structures as promotional activities when such meals predominantly feature farm crops and livestock sold at the farm stand. Promotional activities authorized by this section shall be incidental and subordinate to the sale of farm crops or livestock at the farm stand.”

Temporary Structures

Statute prohibits the use of farm stand structures for banquets, public gatherings or public entertainment. The holdings in the Greenfield case include that temporary structures are subject to this limitation. This interpretation means that no farm stand structures, including temporary tents and canopies, may be used for banquets, public gatherings or entertainment. This means that promotional events only occur out-of-doors, or that they occur in a structure only if the promotional events do not involve banquets, public gatherings or entertainment. Several RAC members cited the prohibition on the use of temporary shelter for promotional event attendees as a health and safety issue during different times of the year. There was a variety of opinion on this topic, however, with some RAC members expressing concern that these structures become permanent in practice and allow a larger scale of activity than permitted by statute. One RAC member noted that the impacts associated with event use are generally the same whether the structure is temporary or permanent.

Suggestion:

“Temporary structures may be used to shelter visitors participating in promotional events authorized by this section.”

“As used in this section “temporary structure” includes structures such as tents, canopies, chairs, benches and tables that are sited and used on the property for no more than 90 days in a calendar year. “Temporary structure” does not include food trucks.”

Prepared Foods with a Direct Tie to the Farm Operation or the Local Agricultural Area

LCDC adopted rule language in 2006 that allows processed farm crops and livestock to be sold as farm crops. The current language clarifies that prepared foods are not processed foods which may be considered farm crops. Currently prepared food items are meant to be sold as retail incidental items subject to an income limitation of 25% of the farm stand sales. The RAC discussed clarifying what is included in the definition of “processed farm crops and livestock” and what is “prepared food”. Some RAC members wished to clarify that farm crops and livestock should include all processed items allowed by farm direct marketing law¹.

A farm stand permit does not authorize processing of farm crops and livestock. Farm crop processing is permitted as a farm product processing facility as described in ORS 215.255 or as a home occupation in ORS 215.448.

Suggestion (based on model code language):

(c) As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, “processed farm crops and livestock” includes ~~jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.~~ farm products that have been converted into other products through canning, drying, baking, freezing, pressing, fermenting, dehydrating, pickling, freeze-drying, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into prepared food items that are intended for on-site, immediate consumption. Such items may include, but are not limited to, products such as jam, pickles, syrup, apple cider, jerky, salsa and kimchi.

¹ Fruit-based syrups or fruit in syrup, fruit-based jams, jellies or preserves, acidified fruits or vegetables, lacto-fermented fruits or vegetables, fruit or vegetable juice, freeze-dried fruits or vegetables that are grown and processed by the farmer and are sold directly to the consumer. Total annual sales are less than \$50,000.

Impacts on Neighboring Farms

Because farms stands are a sub-1 use, there is an assumption that they will not have a negative impact on surrounding farm and forest operations so long as the legislative standards are followed. No impacts test is required. In practice, farm stands have generated controversy due to neighbor conflicts. Some RAC members offered that common concerns related to farm stands include noise, traffic, glare, street side parking, litter, and trespass. Some members suggested it may be beneficial to explicitly allow counties flexibility to require measures addressing these concerns, like requiring buffers. Other RAC members expressed support for clear and objective standards addressing these types of issues as opposed to requiring an impacts test analysis.

Other RAC members suggested an impacts analysis would be helpful in reducing conflict at larger farm stands or farm stands that frequently host events. It would require legislative action to create a sub-2 farm stand use.

Other RAC members suggested that limiting the intensity, scope and scale of farm stands would reduce conflicts and the need for an impacts test. Several suggestions for limiting farm stands are addressed elsewhere.

The agency is proposing adoption of the following development standards for farm stands based on 2015 agency Model Code Language. One RAC member shared that they have adopted this language into their county ordinance and feel that it has worked well to minimize conflicts.

Suggestion (based on 2015 Model Code language):

Farm Stand Development Standards

- *Adequate off-street parking will be provided*
- *Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.*
- *All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.*
- *No farm stand building or parking is permitted within the right-of-way.*
- *Approval is required from the County Public Works or Road Department regarding adequate egress and access.*
- *All ingress, egress and access points shall be clearly marked.*

- *Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within “vision clearance areas” at street intersections or as otherwise required by applicable county clear-vision ordinances.*
- *Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection or as otherwise required by applicable county clear-vision ordinances.*
- *Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade or as otherwise required by applicable county clear vision ordinances.*
- *Requirements limiting outdoor lighting should be consistent with county requirements for illuminated signs.*
- *All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.*
- *Sign requirements should be consistent with the county’s sign ordinance and the allowances/restrictions related to signs in resource zones.*
- *Permit approval is subject to compliance with any applicable County and Department of Agriculture requirements and with the development standards of this zone.*
- *Protective buffers or setbacks may be required to minimize conflicts with adjacent farm and forest operations.*

Enforcement

There was discussion at every RAC meeting on the challenges of enforcing farm stand standards and conditions of approval. Farm stands may operate as small business endeavors appropriate for a sub-1 use in a farm zone, and then may grow due to their success to become much larger commercial businesses of a scale and intensity that merits an impacts review. The agency received a variety of comments on this issue. We are proposing a permit review requirement on a rolling 7-year basis that will allow a county to review and assess whether the business may need a different type of permit (such as an agri-tourism and other commercials event permit, a winery, cidery or brewery permit, or a commercial activity in conjunction with farm use permit), or whether different conditions of

approval may be required to address potential impacts to neighbors due to the expanded scope and scale of the operation. This process would allow concerned neighbors an alternative to an enforcement proceeding and provide business owners and counties with a structured process to engage in any conversation that may be merited.

Suggestion:

The governing body or its designee shall review a farm stand permitted under these rules no more than seven years after the initial approval of the farm stand for continued compliance with these rules, and every seven years thereafter. For farm stands existing as of the effective date of these rules, the governing body shall conduct the review no more than seven years after the effective date of these rules, and then every seven years thereafter. The governing body or its designee shall, at the conclusion of the review, issue a land use decision that either:

- 1. Renews farm stand the land use permit without additional conditions,*
- 2. For farm stands not previously permitted under the provisions of this rule, determines that the farm stand is operating in compliance with this rule,*
- 3. Renews the farm stand land use permit with modified conditions, or*
- 4. Terminates the farm stand land use permit.*

The governing body may charge a fee for permit review from the farm stand operator that is reasonably related to the costs of the permit review.

Following is the full draft rule redline similar to how this section may appear in the Secretary of State Notice.

OAR 660-033-0130(23) A farm stand may be approved if:

(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and

(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment. ~~A temporary structure designed and used only for the sale of farm crops and livestock grown on the farm operation is not a farm stand for purposes of this rule. Low-intensity, infrequent activities, such as educational farm tours, for which no fee is charged or collected do not require a farm stand approval. Temporary structures may be used to shelter visitors participating in promotional events authorized by this section.~~

~~(c) As used in this section "temporary structure" includes structures such as tents, canopies, chairs, benches and tables that are sited on the property for no more than 90 days in a calendar year. "Temporary structure" does not include food trucks.~~

~~(d) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed farm crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items. farm products that have been converted into other products through canning, drying, baking, freezing, pressing, fermenting, dehydrating, pickling, freeze-drying, butchering or other similar means of adding value to the farm product, including the addition of incidental ingredients, but not including the conversion of farm products into prepared food items that are intended for on-site, immediate consumption. Such items may include, but are not limited to, products such as jam, pickles, syrup, apple cider, jerky, salsa and kimchi.~~

(e) As used in this section, "local agricultural area" includes Oregon or an area in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located and is within 50 miles of the Oregon state boundary.

(f) As used in this section a “promotional activity is an activity that encourages the sale of farm crops or livestock sold at the farm stand by featuring that product or products as the primary focus of the activity or educates visitors on the agricultural practices being conducted on the farm. Such activities may include, but are not limited to, flower arranging classes at a farm stand that sells cut flowers, fee-based tours, cooking demonstrations using farm products sold at the farm stand, product sampling or tasting, and rides to or through crop fields. Occasional farm-to-table meals, up to seventeen days in a calendar year, may be hosted outside of farm stand structures as promotional activities when such meals predominantly feature farm crops and livestock sold at the farm stand. Promotional activities authorized by this section shall be incidental and subordinate to the sale of farm crops or livestock at the farm stand.

(g) For purposes of this section “retail incidental items” are items with a direct relationship to the farm crops or livestock sold at the farm stand and which are intended to promote the sale of farm crops or livestock sold at the farm stand. Such retail incidental items may include, but are not limited to, vases for flowers grown on the site, carving kits for pumpkins grown on site, t-shirts advertising the farm itself.”

(h) A farm stand may not be used for the sale, or to promote the sale, of marijuana products or extracts.

(i) At the request of a local government with land use jurisdiction over the farm stand, the farm stand operator of a farm stand approved under this section shall submit to the local government evidence of compliance with the annual sales requirement of subsection (a). Such evidence shall consist of an IRS tax return transcript and any other information the local jurisdiction may require to document ongoing compliance with this section or any other condition of approval required by the county.

(j) The governing body or its designee shall review a farm stand permitted under these rules no more than seven years after the initial approval of the farm stand for continued compliance with these rules, and every seven years thereafter. For farm stands existing as of the effective date of these rules, the governing body shall conduct the review no more than seven years after the effective date of these rules, and then every seven years thereafter. The governing body or its designee shall, at the conclusion of the review, issue a land use decision that either:

I. Renews farm stand the land use permit without additional conditions,

- II. For farm stands not previously permitted under the provisions of this rule, determines that the farm stand is operating in compliance with this rule,
- III. Renews the farm stand land use permit with modified conditions, or
- IV. Terminates the farm stand land use permit.

The governing body may charge a fee for permit review from the farm stand operator that is reasonably related to the costs of the permit review.

(k) The following development standards shall be applied to farm stands permitted under this rule:

- I. Adequate off-street parking will be provided
- II. Roadways, driveway aprons, driveways and parking surfaces shall be surfaces that prevent dust, and may include paving, gravel, cinders, or bark/wood chips.
- III. All vehicle maneuvering will be conducted on site. No vehicle backing or maneuvering shall occur within adjacent roads, streets or highways.
- IV. No farm stand building or parking is permitted within the right-of-way.
- V. Approval is required from the County Public Works or Road Department regarding adequate egress and access.
- VI. All egress and access points shall be clearly marked.
- VII. Vision clearance areas. No visual obstruction (e.g., sign, structure, solid fence, wall, planting or shrub vegetation) may exceed three (3) feet in height within “vision clearance areas” at street intersections or as otherwise required by applicable county clear-vision ordinances.
- VIII. Service drives shall have a minimum clear-vision area formed by the intersection of the driveway centerline, the road right-of-way line, and a straight line joining said lines through points twenty (20) feet from their intersection or as otherwise required by applicable county clear-vision ordinances.
- IX. Trees exceeding three (3) feet in height may be located in this area, provided all branches and foliage are removed to a height of eight (8) feet above grade or as otherwise required by applicable county clear vision ordinances.
- X. Requirements limiting outdoor lighting should be consistent with county requirements for illuminated signs.
- XI. All outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties, roads and highways.
- XII. Sign requirements should be consistent with the county’s sign ordinance and the allowances/restrictions related to signs in resource zones.
- XIII. Permit approval is subject to compliance with any applicable County and Department of Agriculture requirements and with the development standards of this zone.
- XIV. Protective buffers or setbacks may be required to minimize conflicts with adjacent farm and forest operations.

DRAFT

NOTICE OF PROPOSED RULEMAKING

CHAPTER 660

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILING CAPTION:

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/07/2025 05:00 p.m.

HEARING(S): TBD

DATE: TBD

TIME: TBD

OFFICER: LCDC

IN-PERSON HEARING DETAILS

ADDRESS: TBD

SPECIAL INSTRUCTIONS:

If you intend to testify, please pre-register here so that we have your name in the queue:

<https://www.oregon.gov/lcd/commission/pages/public-comment.aspx>

If you intend to testify and do not have access to a computer, please call Denise Johnson at 971-375-1864 before xx, September xx, 2025. Phone participants will be able to enter the testimony queue the day of the meeting by pressing *9.

REMOTE HEARING DETAILS

MEETING URL: TBD

PHONE NUMBER: TBD

CONFERENCE ID: TBD

SPECIAL INSTRUCTIONS:

If you intend to testify, please pre-register here so that we have your name in the queue:

If you intend to testify and do not have access to a computer, please call Denise Johnson at 971-375-1864 before xx, September xx, 2025. Phone participants will be able to enter the testimony queue the day of the meeting by pressing *9.

NEED FOR THE RULE(S):

Rulemaking is proposed to improve clarity and ease of implementation of rules related to farm stands in exclusive farm use zones as identified by the 2025 Legislative Agritourism Working Group. Areas identified by the 2025 Legislative Agritourism Working Group as needing clarification included: the primary use of the land hosting a farm stand, activities that promote sale of farm products, the farm operation itself, or agriculture, promotional activities outside and inside a farm stand structure, prepared foods and impacts to neighboring farms. Rule clarifications are proposed addressing each of these five topics.

DRAFT 07.11.2025

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- ORS 215, OAR 660-033-0130
- The relevant county code documents are discussed below are available from each local government within the State of Oregon, either at the local government offices, or online, or both.
- Information from the DLCD Farm and Forest Reporting Database is available on request from the agency.

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

According to the 2017 census of agriculture, 94 percent of Oregon's farm producers identify as white and just under three percent of Oregon's farm producers identify as Hispanic or Latino. Less than one percent of Oregon's farm producers identified themselves as American Indian or Alaskan native, Asian, Hawaiian, or black or African American. 92 percent of farmland acreage in the state is owned by persons identifying as white, five percent is owned by persons identifying as American Indian or Alaskan native, three percent is owned by persons identify as more than one race and 1 percent is owned by persons identifying as Hispanic, Latino or of Spanish origin. Less than one percent of owners of farmland identified themselves as Asian, Hawaiian, or black or African American. These statistics provide insight into farming in Oregon as a whole, but information provided by the census of agriculture does not reflect what is happening only on land zoned for exclusive farm use or forest use which is the subject of this rulemaking.

It is important to note that the census of agriculture includes all land in farm use regardless of where that land is or how that land is zoned. Statewide planning Goal 3 does not apply to land within urban growth boundaries and so does not protect land being farmed in urban areas or developing areas within UGBs. It may be useful to review racial statistics on the distribution of urban farm producers and rural farm producers, however we are not aware of any such data set. A number of articles have been published over the five years focused on the role of urban agriculture in social justice, access to food and community revitalization. The agency is aware of the growing importance of urban agriculture in Oregon. In 2023, Portland received one of 17 new USDA/NRCS urban agriculture centers nationwide to receive support from USDA's Urban and Innovative Community-Based Organization Fund. However, the farm and forest conservation program and the proposed rule changes do not apply to farm operations within urban growth boundaries.

Statewide Planning Goal 3 also does not apply to lands for which a county has taken an exception to the goal. Even though land may have characteristics that meet the state's definition for protection as agricultural land or timber land, a county may zone resource land for other purposes under certain conditions. These "exception lands" include a variety of rural lands which are planned for rural residential, rural commercial and rural industrial development rather than for agricultural or timber production. Most rural zones that are zoned for non-resource purposes, like rural residential zones, do also permit farming and timber operations to occur on those exception lands. The USDA census of agriculture does not distinguish between farm operations conducted on exception land and farm operations conducted on resource lands. The census definition of a 'farm' is any place from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year. It is worth noting that this definition includes hobby or lifestyle operations which may be occurring on rural residential properties. It would be useful to be able to look at

ownership of rural exception lands and resource lands by race and to identify the number of farm and farm acres located on exception lands and on resource lands, however, we are not aware of a dataset that would offer that insight. The proposed rule changes only apply to land zoned for commercial farm and forest use.

DLCD does not have the ability to ‘clip’ agricultural census data to lands protected under the farm and forest conservation program and is not aware of any other data source which would provide insight specifically into racial ownership of land protected under the farm and forest conservation program, or the race of recipients of non-resource development permits issued on land protected under the farm and forest conservation program. It may be reasonable to assume that, like Oregon farmland in general, a very high percentage of land protected under the conservation program which is the subject of this rulemaking is owned by people who would identify as white.

Much has been written in recent years about historical racial inequities in farmland ownerships which is reflected in the statistics on ownership of farmland generally in Oregon above, particularly around grant and loan practices. There has also been a surge in focus on facilitating access to capital for new and beginning and disadvantaged farmers who have historically faced barriers in securing land access. Oregon’s agricultural land conservation program is focused on protecting rural land consisting of good agricultural soil. The program was intended to be neutral to issues of ownership or the farm practices occurring on that land. There are statutory prohibitions against the regulation of customary farm or forest practices by the land use planning program. Practices are regulated by the Oregon Department of Agriculture, the Department of Environmental Quality, the Oregon Department of Forestry and other sister agencies. The focus of the program is protecting the limited amount of good agricultural soil in the state to support the agricultural economy while allowing for limited non-resource development within protected areas when it is found that such development is compatible with and will not negatively impact agricultural or forest operations.

The Department has heard concerns that the minimum parcel size standards for protected agricultural lands may be a barrier to new and beginning and disadvantaged farmers. In other words, the concern is that large farm parcels may be less affordable for aspiring farmers and smaller rural residential parcels that allow small-scale farming are not affordable at market rates. In response, the department conducted a review of tax lot acreage of land zoned Exclusive Farm Use (EFU) in Multnomah County which revealed that 95 percent of EFU tax lots in Multnomah County are already smaller than the 80-acre minimum parcel size for farm zone, 75 percent of all EFU tax lots in Multnomah County are smaller than 20 acres in size and 59 percent of EFU tax lots in Multnomah County are smaller than 10 acres in size. Similar evaluations for other Oregon counties will be conducted as part of the 2022-2023 Biennial Farm and Forest Land Use Report to the Legislature. The current rulemaking, however, does not address parcel size standards or partitioning rules.

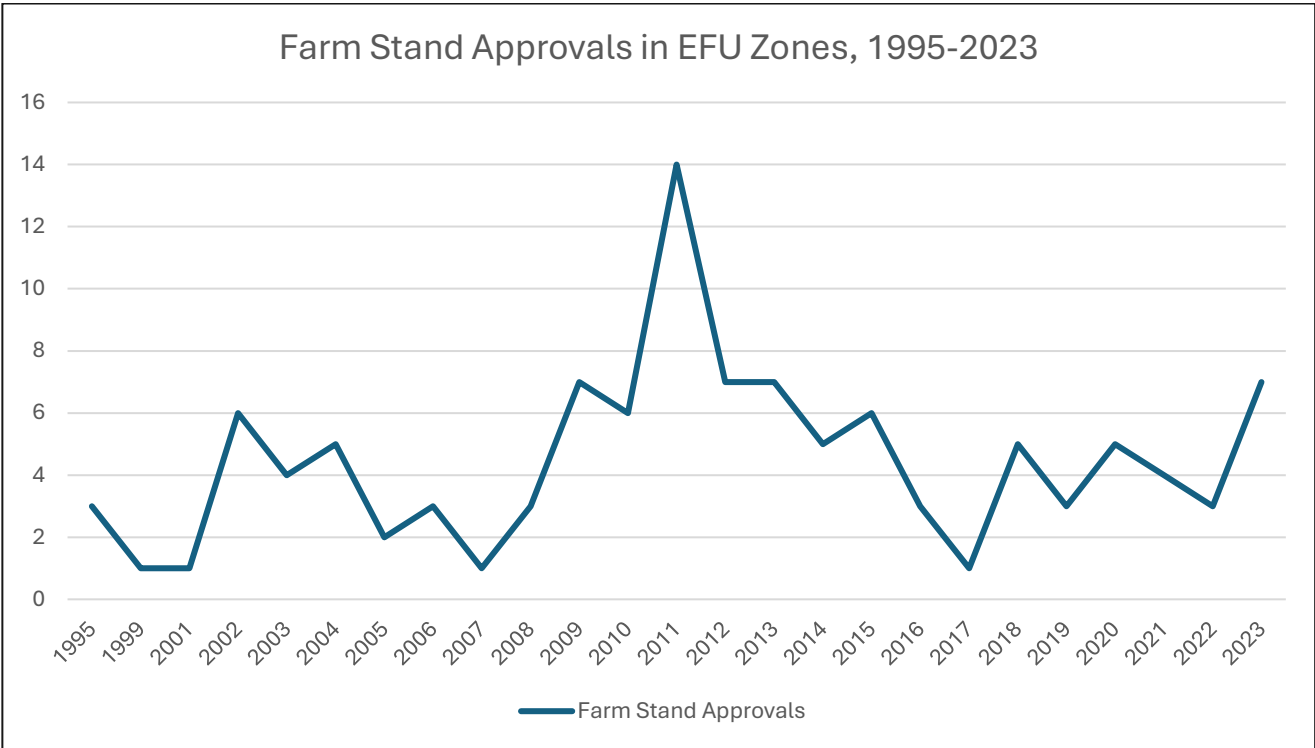
A primary goal of the current rulemaking is to improve the clarity and consistency of implementation of the rules related to development of farm stand enterprises in exclusive farm use zones across the state. Oregon’s land use planning program attempts to balance clarity and objectivity in the regulatory framework with allowing for a degree of local control and discretion. The farm and forest land conservation program contains some clear and objective elements, areas where discretion is given to county jurisdictions, and also areas which lack clarity. Lack of clarity in program interpretation

often results in uncertainty, not only for counties tasked with implementing the program, but also for potential applicants and the public with an interest in the land use review. Applicants who have access to legal or private land use planning support are often better able to navigate these more ambiguous areas. Applicants who do not have access to legal or private land use planning support - for financial or other reasons - may not have the same degree of ability to prepare a defensible permit application or see their application through an appeals process. Such disadvantaged applicants are likely to include disproportionately high percentages of racial and ethnic minority populations, because such populations generally have lower than median household incomes due to historically discriminatory government actions. Improvements in the clarity and consistency of program implementation are expected to make the permitting process easier to navigate, not only for planning staff, but for all applicants as well.

FISCAL AND ECONOMIC IMPACT:

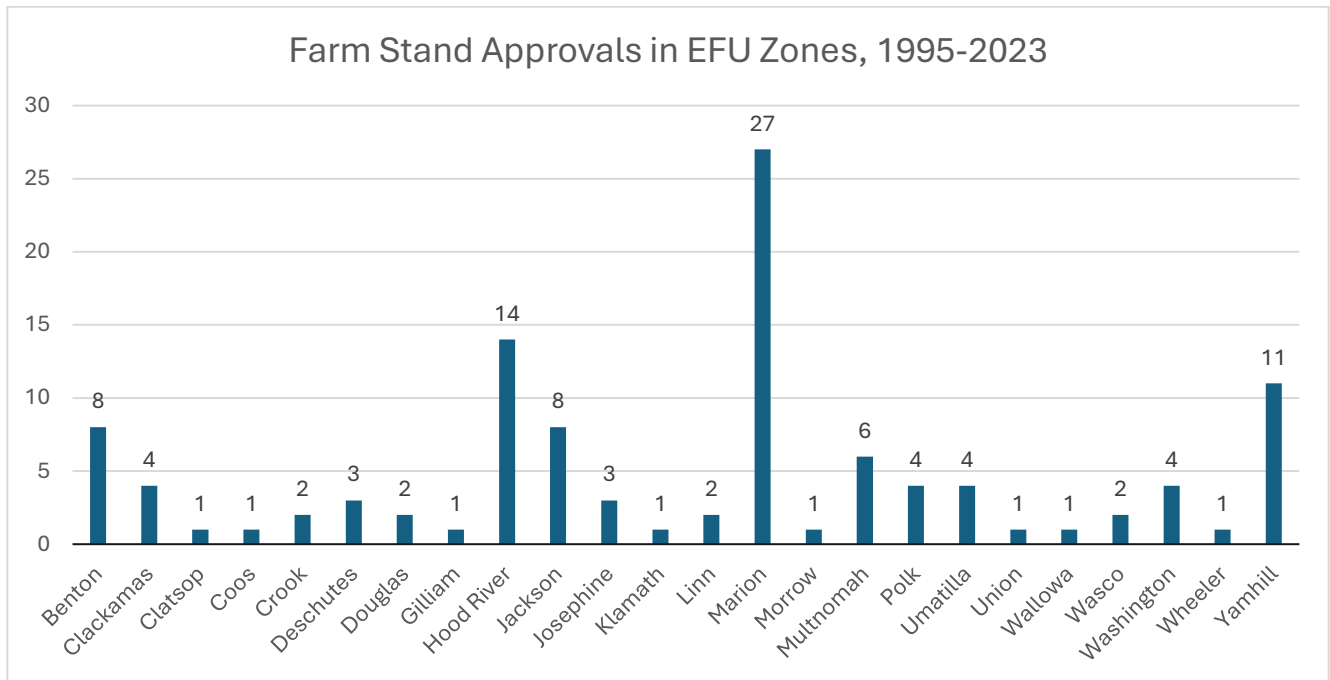
Farm stands were added as a use allowable outright in exclusive farm use (EFU) zones in 1993. Businesses selling farm products may be permitted in EFU zones as a farm use, as a commercial activity in conjunction with farm use, as a home occupation, as a winery, cidery or brewery, or as a farm stand. This rulemaking focuses on farm stands as authorized under ORS 215.283(1)(o) and 215.213(1)(r).

One hundred and twelve farm stands have been approved in Oregon since 1993 for an average of four permit approvals a year.



Historically, 24% of farm stand applications have been issued in Marion County, 13% have been issued in Hood River County, 11% have been issued in Yamhill County, 7% have been issued in Benton County, and 7% have been issued in Jackson County. Some counties have not reported any

farm stand permit approvals.



Farm stands provide an opportunity for farms to market agricultural products, including crops, livestock and value-added processed products from other farms in Oregon as well as the hosting farm. Farm stand statutes also allow farm stand operators to sell incidental retail items and host events intended to promote the agricultural products being sold at the farm stand. A farm stand business can provide supplemental income to a farm operation, or it can be the primary source of income for the property owner.

Farm stands authorized under ORS 215.283(1)(o) or 215.213(1)(r) are assumed to be compatible with farm and forest operations in the surrounding area so long as the standards established by the legislature are met. Therefore, an applicant for a farm stand does not have to demonstrate that their proposed development will not have a negative impact on their neighbors. DLCD has received comments expressing concern about farm stands operating in such a way as to negatively impact neighboring farm businesses due to conflicts such as traffic, off-site parking, noise, and trespass.

DLCD has focused on providing rule clarifications intended to support direct-to-consumer marketing opportunities for farmers while minimizing potential negative impacts to neighboring commercial farm and forest operations.

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).

(1) The main impact upon state agencies, units of local government, and members of the public

would arise in areas
(2) Effect on Small Businesses

Applicants for both new farm stand business permits pursuant to ORS 215.283(1)(o) or 215.213(1)(r) and the operators of existing farm stands may be impacted by the rule. Since 1995, one hundred and twelve (112) farm stand permits have been issued in the state of Oregon under the referenced standards. It is reasonable to assume that the impact would be close to the historic average of four (4) businesses applying for farm stand permit approvals a year.

Historically, 24% of farm stand applications have been issued in Marion county, 13% have been issued in Hood River County, 11% have been issued in Yamhill County, 7% have been issued in Benton County, and 7% have been issued in Jackson County. It is reasonable to assume that these counties may continue to see a higher volume of farm stand permit applications. Some counties have not reported any farm stand permit approvals.

Additionally the proposed rule will require counties to review all farm stand operations for compliance with the conditions of approval and rule standards within seven years of the rule's effective date for existing farm stands, seven years from approval of a new farm stand, and every seven years thereafter. This would result in a permit review fee for existing farm stand operations and would impose a new obligation on counties to review existing farm stands for compliance. This requirement may result in costs to businesses if they are not in compliance with the conditions of their permit approval although this would be the case were an enforcement order to be brought against a non-compliant farm stand. This would impact 112 businesses or fewer as not all permitted farm stands may be operating today. As noted above, this would have a greater impact on Marion, Hood River, Yamhill, Benton and Jackson counties due to the number of historic farm stand approvals in these counties. The proposed rule change would have a positive financial effect on farm businesses who have been negatively impacted by farm stand operations by creating a permit review process rather than requiring a neighboring business to pursue enforcement.

The department has not identified additional reporting, recordkeeping, and administrative activities and cost required for small businesses to comply with the rule changes.

Counties may update their ordinances to reflect the rule changes or they may directly apply the new rule provisions.

Some public comment received by the agency expressed concern that larger scale farm stands or farm stands that offer a large number of events can draw customers away from restaurants and stores in commercial zones and negatively impact small town main street businesses. The agency is not aware of data sources on this topic and it is not clear how nearby businesses in commercial zones may be impacted by farm stand rule clarifications.

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

DRAFT 07.11.2025

The department's rulemaking advisory committee included several members who expressed the interests of small businesses, including the Oregon Farm Bureau, Oregon Property Owners Association, and several individual farmers and farm stand business operators.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

The proposed change has no impact on any housing materials and labor costs, administrative construction or other costs, land costs, or other costs, because it does not impact urban areas zoned for residential uses, unincorporated community areas zoned for residential use, or rural residential areas zoned for residential use.

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

Rulemaking is proposed to improve clarity and ease of implementation of rules related to farm stands in exclusive farm use zones as identified by the 2025 Legislative Agritourism Working Group. Areas identified by the 2025 Legislative Agritourism Working Group as needing clarification included: the primary use of the land hosting a farm stand, activities that promote sale of farm products, the farm operation itself, or agriculture, promotional activities outside and inside a farm stand structure, prepared foods and impacts to neighboring farms. Rule clarifications are proposed addressing each of these five topics.

List of rules adopted or amended: OAR 660-033-0130

Materials and labor costs increase or savings: None

Estimated administrative construction or other costs increase or savings: None

Land costs increase or savings: None

Other costs increase or savings: None

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RULES PROPOSED: TBD

RULE TITLE: Farm Stands

RULE SUMMARY: TBD

DRAFT 07.11.2025

RULE TEXT: TBD