

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

OAR chapter 660

Agency and Division

Administrative Rules Chapter Number

Permanent Measure 49 Rules Clarifying Requirements for Measure 49 Authorizations, Including Notice to State

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

In the Matter of: Permanent Measure 49 Rules Clarifying Requirements for Measure 49 Authorizations, Including Notice to State

Statutory Authority: ORS 197.040

Other Authority: Statewide Land Use Planning Goals 2-4, 11 and 14 (OAR 660-015-0000(2)-(4), (11) and (14))

Stats. Implemented: ORS 195.300-195.332

Need for the Rule(s): The proposed permanent rules amend OAR chapter 660, division 41. The purpose of these rules is twofold. First, the rules clarify the requirements and process for evaluating Elections under Section 6 of Measure 49 for home site authorizations. There is uncertainty as to whether certain Measure 37 claimants who sought relief under Measure 49 were lawfully permitted to establish the number of home sites for which Elections have been submitted. These rules clarify how lawfully permitted uses are evaluated and determined. Second, the proposed rules also require local governments to notify DLCD of land use applications and decisions approving home sites authorized under Measure 49. This will ensure that state and local actions on Measure 49 Elections, including county land use approvals based on Measure 49 authorizations, and clustering and 20-homesite limitation requirements under Measure 49, are coordinated and consistent.

Documents Relied Upon, and where they are available: ORS 195.300-195.332; County acknowledged land use regulations; historic land use statutes and rules. All documents relied on are available at the Oregon Department of Land Conservation & Development website and at 635 Capitol St. NE, Suite 150, Salem, Oregon 97301-2540.

Fiscal and Economic Impact, including Statement of Cost of Compliance:

Part 1: Clarifying the Requirements for Measure 49 Authorizations. Based on available information, adoption of the proposed rules clarifying the requirements for Measure 49 Authorizations will not result in additional fiscal or economic impacts. This rule does not require additional expenses from claimants. Rather, it clarifies the DLCD evaluation process for determining what was lawfully permitted on the date certain claimants acquired their Measure 37 claim property. It is anticipated that the proposed rules will expedite the evaluation of affected claims and, therefore, will not have an adverse fiscal impact to the agency. The proposed rule would apply to all Measure 37 claimants, whether individuals or business, who have elected relief under Section 6 of Measure 49, which allows the department to authorize up to three home sites on the Measure 37 claim property, based on whether those home sites would have been lawfully permitted at the time the claimant acquired the property. It will not otherwise have an impact on business or small business.

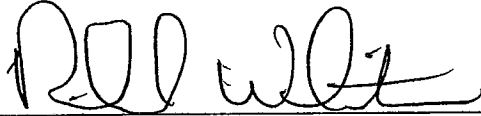
Part 2: Requiring Local Government to Notify DLCD of Land Use Applications and Decisions. In most cases, the proposed rule will simply require local government to add DLCD to its notice list for a notice already required by other law. In those instances where notice is already required by other law, the rule should require no more than approximately ten to fifteen minutes of staff time per application to prepare the notice. By requiring notice, the rule will ensure that local decisions carrying our Measure 49 authorizations are consistent with state law, and avoid subsequent disputes and costs. The rule is not expected to have any fiscal or economic effect on business or small business.

Housing cost impact.

The proposed rules are not expected to have an impact on housing costs.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The proposed rules are necessary to ensure that Measure 49 is implemented in a manner consistent with other aspects of the statewide land use planning system and the Measure itself. The agency is moving quickly to issue Measure 49 authorizations, which counties have already begun to implement. In the judgment of the agency, it is necessary to proceed with these rules quickly in order to expedite the processing of Measure 49 elections, and to ensure efficient coordination between the agency and local government as the counties approve home sites based on Measure 49 authorizations.



Richard Whitman, Director

1/14/07

Signature

Printed name

Date

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