

Secretary of State
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

RULE CAPTION

Implements Senate Bill 1049 (2010) and facilitates local government implementation of Measure 49 authorizations.

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

In the Matter of: Adoption and amendment of rules regarding 2010 amendments to Measure 49 and local implementation of Measure 49 authorizations.

Statutory Authority: ORS 197.040, 2010 Oregon Laws, Chapter 8 (Senate Bill 1049)

Other Authority:

Stats. Implemented: ORS 195.300-195.336; 197.015; 197.040; 197.065; 197.353; 2007 Oregon Laws Chapter 424 (2007 Oregon Ballot Measure 49), 2009 Oregon Laws, Chapter 855 (House Bill 3225); 2010 Oregon Laws, Chapter 8 (Senate Bill 1049)

Need for the Rule(s): The proposed rules amend OAR Chapter 660, Division 041, which includes rules adopted to implement Ballot Measure 49 (M49). Senate Bill 1049 enables categories of otherwise ineligible Measure 37 (M37) claimants to make M49 elections, limits the relief available, and requires affected claimants to pay a \$2,500 fee to cover costs of processing of their claims. Some of the proposed rules would facilitate review under SB 1049 and M49 of about 400 otherwise ineligible M37 claims by providing for elections, fee and information collection, setting forth timelines and clarifying the relief available under SB 1049. Section 11 of M49 addresses standards for development completed pursuant to a M49 authorization. The remainder of the proposed rules would provide direction to local governments in ensuring that development established pursuant to Measure 49 authorizations is consistent with Section 11 of M49.

Documents Relied Upon, and where they are available:

- 2010 Oregon Laws, Chapter 8 (Senate Bill 1049), Oregon State Legislature
- 2007 Oregon Laws Chapter 424 (2007 Oregon Ballot Measure 49), Oregon State Legislature
- OAR Chapter 660, Division 041, DLCD, 635 Capital St., Salem, OR 97301

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Senate Bill 1049 enables categories of otherwise ineligible M37 claimants to make M49 elections, limits the relief available, and requires affected claimants to pay a \$2,500 fee to cover costs of processing of their claims. This rule amends division 041 to be consistent with SB 1049. As such, it is not expected to have a fiscal impact on state agencies other than DLCD. The fiscal impact on DLCD includes the costs necessary to process the approximately 400 M49 elections that otherwise would not have been fully processed by June 30, 2011. These costs are offset by the \$2,500 fee charged for each M49 election under SB 1049. Impact on individual claimants is related to a \$2,500 fee per claim and the possible refunding of that fee if the claim is not processed by June 30, 2011. The additional costs to local governments will involve minimal costs, if any, that would accrue during the processing of any M49 election. These relate to information provided by counties such as, ownership documents, property descriptions or land use regulations applicable to claims at the time of acquisition by M37/49 claimants. In some of the estimated 400 elections/claims, this information may have already been gathered.

This rule also amends division 041 to facilitate compliance with Section 11 of M49 regarding development standards at the local level. This rule aims to provide direction and clarify administration of Section 11 of M49 for local governments and as such should not result in an increase in costs for local governments or individual claimants.

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: M49 claimants are almost exclusively individuals or family members seeking authorization for residential development.

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

c. Equipment, supplies, labor and increased administration required for compliance: N.A.

How were small businesses involved in the development of this rule? Small business may have had some involvement in the development of SB 1049.

Administrative Rule Advisory Committee consulted?: If not, why?: No. This rulemaking is primarily for consistency with the requirements of SB 1049 and for facilitating local government implementation of Measure 49 authorizations.

	Casaria Tuttle	06/11/10
Signature	Printed name	Date

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