

**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

Revise and clarify the requirements for irrigation reservoirs on farmland

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

In the Matter of: Amendments to administrative rules to revise and clarify the approval process and standards for irrigation reservoirs on farmland

**Statutory Authority:** ORS 197.040

**Other Authority:**

**Stats. Implemented:** ORS 215.203, 215.213 and 215.283

**Need for the Rule(s):** The department believes that the applicability of current statutory and rule provisions are unclear regarding the siting of water impoundments on farmland for farm irrigation reservoirs. While water impoundments are currently defined as a farm use under ORS 215.203(2)(G), such impoundments must lie in or adjacent to and in common ownership with farm use. This may limit the applicability of this definition. Irrigation canals and delivery facilities are permitted at ORS 215.213(1)(w) and 215.283(1)(t), but such facilities do not clearly include impoundments. Declining groundwater levels around the state are likely to lead to increasing requests for irrigation reservoirs on farmland. A rulemaking effort to clarify or modify the permitting of irrigation reservoirs on farmland has been requested by the Oregon Board of Agriculture.

**Documents Relied Upon, and where they are available:** ORS chapters 197 and 215, Statewide Planning Goal 3, OAR chapter 660, division 33. These documents are available on the Agency's web site at <http://www.oregon.gov/LCD/index.shtml> or by contacting Casaria Tuttle at the Department of Land Conservation and Development at 503-373-0050 ext. 322.

**Fiscal and Economic Impact:** Statutory provisions (ORS 183.335(2)(b)(E) and (G)) and 183.540 require the Agency to consider whether a proposed rule amendment will have any significant economic impact on business and whether options should be considered to reduce any negative impacts of the rule on business. ORS 197.040 requires the Agency to address what property interests will be, or are likely to be affected by the proposed rule, to what degree those interests are likely to be affected, and whether alternative actions are available to achieve underlying governmental objectives, and have a lesser economic impact. The proposed rule amendments would update, clarify and streamline the review process and standards for irrigation reservoirs on farmland. This will likely have a positive economic impact on irrigation districts and farmers receiving water from such districts. It could also have a negative economic impact on farmers and others whose lands may be inundated. However, the same negative economic impacts could also result from irrigation reservoirs that are sited through the currently available Goal 2 exceptions process. The proposed amendments will restrict the ability to site commercial recreation, power generation and utility uses around irrigation reservoirs so as not to interfere with the irrigation purpose of the reservoir, but these uses would not be likely to be proposed without the presence of a reservoir. Existing businesses around irrigation reservoirs will not be affected.

**Statement of Cost of Compliance:**

**1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):** The proposed amended rules should have a neutral impact on state agencies, units of local government and the public, except that counties will need to make minor amendments to local regulations to incorporate the proposed amendments. The cost of such amendments should be very minimal.

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

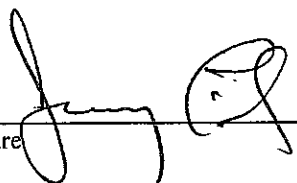
**a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:** The department identifies small farms, large farms, farm product processors and special districts that seek to construct irrigation reservoirs on farmland as subject to the rule. Other than small farms, no other small businesses are anticipated to be affected by the rule amendments. The number of such businesses that would be affected will likely depend on the size and membership of irrigation districts desiring irrigation reservoirs, which in turn will be based on future changes in groundwater levels, water rights permitting and snowmelt patterns. It is not possible to estimate the number of small businesses that might be affected because future irrigation needs statewide are currently unknown. Neither the Oregon Department of Agriculture nor the Oregon Water Resources Department has identified the number, size or location of potential future irrigation reservoir

sites. However, except for some small businesses (farms) that may be inundated by irrigation reservoirs, all other impacts on other small businesses are anticipated to be positive.

**b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:** The proposed rule amendments would not require any of these activities on the part of affected small businesses.

**c. Equipment, supplies, labor and increased administration required for compliance:** The proposed rule amendments would not require affected small businesses to incur costs of equipment, supplies, labor and administration because the rules do not impose compliance requirements for such entities.

**How were small businesses involved in the development of this rule?** The proposed rule amendments were developed in consultation with a rules advisory committee that was representative of a broad range of interests, including farmers, irrigation districts and the Oregon Department of Agriculture. Small businesses, as such would be expected to be impacted only to the extent they are part of a rural agricultural community. The Department also provides broad notice of the proposed rules to interested parties and on its web site.

	Jerry Lidz, Acting Director	5-11-11
Signature	Printed name	Date

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