

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

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ARCHIVES DIVISION
SECRETARY OF STATE

Land Conservation and Development Department

660

Agency and Division

Administrative Rules Chapter Number

Casaria Taylor

(503) 373-0050, ext. 322

Rules Coordinator

Telephone

Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

Address

RULE CAPTION

Revise disturbance baseline attached to LCDC's Sage-Grouse Rule

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

Hearing Date	Time	Location	Hearings Officer
5-15-17	4:00 p.m.	Harney County Visitor Center, 484 N. Broadway, Burns, OR	DLCD Staff
5-18-17	8:30 a.m.	Basement Hearing Room, 635 Capitol St., Salem, OR	LCDC

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

660-023-0015, Attachment D

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 197.040

Other Authority:

Statewide Planning Goal 5

Statutes Implemented:

ORS 197.040

RULE SUMMARY

The department will recommend the commission adopt a minor rule revision in order to modify the existing human disturbance baseline values for sage grouse core areas (OAR 660-023-0115, Exhibit D). The original baseline values were determined using a variety of datasets that were the best available in 2013-2014. One of these datasets delineating electric transmission lines was a proprietary dataset that is now preventing the department from creating a fully transparent central registry as directed in Section 15 of OAR 660-023-0115 (a.k.a. Sage Grouse Rule). This rulemaking is intended to modify the baseline values to reflect the use of a replacement transmission line dataset that is state-owned and maintained. No other amendments to the Sage Grouse Rule, the baseline values, or the supporting datasets will be requested.

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.

05-18-2017 Close of Hearing	Casaria Taylor	casaria.taylor@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

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STATEMENT OF NEED AND FISCAL IMPACT
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Administrative Rules Chapter Number

Revise disturbance baseline attached to LCDRC's Sage-Grouse Rule

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

In the Matter of:

Revise disturbance baseline attached to LCDRC's Sage-Grouse Rule

Statutory Authority:

ORS 197.040

Other Authority:

Statewide Planning Goal 5

Statutes Implemented:

ORS 197.040

Need for the Rule(s):

This rule is needed to improve the baseline calculations for monitoring disturbance in core sage-grouse habitat areas. The original baseline values were determined using a variety of datasets that were the best available in 2013-2014. One of these datasets delineating electric transmission lines was a proprietary dataset that is now preventing the department from creating a fully transparent central registry as directed in Section 15 of OAR 660-023-0115 (a.k.a. Sage Grouse Rule). This rulemaking is intended to modify the baseline values to reflect the use of a replacement transmission line dataset that is state-owned and maintained. No other amendments to the Sage Grouse Rule, the baseline values, or the supporting datasets will be requested.

The U.S. Fish and Wildlife Service has determined that listing the greater sage grouse as an endangered species is not necessary. This decision was based in substantial part on Oregon's demonstrated program (State Action Plan and Executive Order) developed in cooperation with private citizens, local governments and federal agencies, in specified eastern and central Oregon counties. This rule proposal would add a disturbance baseline to OAR 660-023-0115, which the Land Conservation and Development Commission adopted on July 24, 2015. The disturbance baseline is necessary to measure development amounts into the future and to provide assurance to state and local decision makers.

The proposed rule revision is not expected to affect the building costs or the permitting of single family housing in the geographical areas affected by the rule. The rule defines and addresses how "large scale development" and "disturbance" are to be treated in sage grouse habitat, from a land use planning perspective. Development of a 1,200 square foot house on a 6,000 square foot lot is not expected to be affected by these terms in rule. To the extent that development of such a house could be seen as a "conflicting use" in application of the rule, it would still be allowed in an appropriate location.

Documents Relied Upon, and where they are available:

State Action Plan; Executive Order 15-18; Statewide Planning Goal 5. Available from the department at 635 Capitol Street, NE, Ste. 250, Salem, OR 97301.

Fiscal and Economic Impact:

The proposed revision is not expected to create a fiscal or economic impact. An improved disturbance baseline will better allow state and local decision makers to adequately consider proposals for large-scale development in core areas of sage-grouse habitat. The revision will also assist in development of a clean and transparent central registry as required by OAR 660-023-0115(15). No other additional information is available.

Statement of Cost of Compliance:

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

- a. State agencies stand to be affected by this revision only in that greater guidance for development actions in core sage-grouse habitat will be available. Overall, no major changes from the current levels of these agencies' operations or expenditures are expected to result from the adoption of these rules.
- b. Units of local government that would likely be affected by this proposed revision are Baker, Crook, Deschutes, Harney, Lake, Malheur, and Union counties. The revision will provide additional guidance for consideration of large-scale development in core areas of sage-grouse habitat.
- c. The public would stand to be affected by the adoption of the proposed revision only in that greater guidance for development actions in core sage-grouse habitat will be available.

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

- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

Local contractors and small businesses providing goods and services to people living in the seven-county area (e.g., accommodation businesses, food and beverage services, food stores, general merchandise or other retail stores) could be affected by the rule. Given the broad geographic reach of this rule, the number of small businesses affected by the rule cannot be estimated.

The rule does not directly subject small business and industries to regulation. The department has no existing information for the seven county area regarding the number or type of businesses and industries that might interact with future "large-scale development" in core sage-grouse habitat areas.

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

No additional compliance activities, including costs are anticipated

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

No additional costs are anticipated

How were small businesses involved in the development of this rule?

No small businesses were directly involved in the development of these rules but deliberations of proposed rules with county government, livestock producers and renewable energy advocates will take into consideration small business interests.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

05-18-2017 Close of Hearing	Casaria Taylor	casaria.taylor@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534) *FOR ADMINISTRATIVE RULES*

AGENCY NAME:

Department of Land Conservation and Development

ADDRESS: 635 Capitol Street NE, Suite 150

CITY/STATE: Salem, Oregon 97301

PHONE: (503) 373-0050, ext 229

PERMANENT: ☒

TEMPORARY: ☐

HEARING DATES: May 15, 2017; May 18, 2017

EFFECTIVE DATE: Upon filing

**BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL
RESULT FROM THIS PROPOSED CHANGE.**

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

This rule will provide an improved baseline for monitoring disturbance in core sage-grouse habitat by using a transmission line data set that is owned and maintained by the state of Oregon.

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

The U.S. Fish and Wildlife Service has determined that listing the greater sage grouse as an endangered species is not necessary. This decision was based in substantial part on Oregon's demonstrated program (State Action Plan and Executive Order) developed in cooperation with private citizens, local governments and federal agencies, in specified eastern and central Oregon counties. This rule is needed to improve the baseline calculations for monitoring disturbance in core sage-grouse habitat areas. The original baseline values were determined using a variety of datasets that were the best available in 2013-2014. One of these datasets delineating electric transmission lines was a proprietary dataset that is now preventing the department from creating a fully transparent central registry as directed in Section 15 of OAR 660-023-115 (a.k.a. Sage Grouse Rule). This rulemaking is intended to modify the baseline values to reflect the use of a replacement transmission line dataset that is state-owned and maintained. No other amendments to the Sage Grouse Rule, the baseline values, or the supporting datasets will be requested.

The proposed rule revision is not expected to affect the building costs or the permitting of single family housing in the geographical areas effected by the rule. The rule defines and addresses how "large scale development" and "disturbance" are to be treated in sage grouse habitat, from a land use planning perspective. Development of a 1,200 square foot house on a 6,000 square foot lot is not expected to be affected by these terms in rule. To the extent that development of such a house could be seen as a "conflicting use" in application of the rule, it would still be allowed in an appropriate location.

List of rules adopted or amended:

OAR 660-023-0115

Materials and labor costs increase or savings:

None expected

Estimated administrative, construction or other costs increase or savings:

None expected

Land costs increase or savings:

None expected

Other costs increase or savings:

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

PREPARERS NAME:Jon Jinings EMAIL ADDRESS:jon.jinings@state.or.us