

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Agency and Division: Department of Land Conservation and Development

Administrative Rules Chapter Number: OAR 660

In the Matter of: Amendments to rules (OAR 660, division 27) regarding land designated urban or rural reserves in the Portland Metro region.

Statutory Authority: ORS 197.040; 195.145

Other Authority: Statewide Planning Goals (OAR 660, div 15) 3, 4, 5, 12 and 14

Statutes Implemented: ORS 195.137 – 195.145, Chapter 723, 2007 Laws

Need for the Rule(s): These rules are necessary to clarify what new uses of land will be allowed in areas designated as urban reserves by Metro, and as rural reserves by Multnomah, Clackamas, or Washington counties. OAR 660, division 27, currently prohibits counties from making amendments to their comprehensive plans to allow new uses of land within areas designated as urban or rural reserves in the Portland Metro area (with limited exceptions). The proposed rule amendments would expand the exceptions somewhat; and also clarify that lands designated as rural reserves must retain that designation over the entire period of the designation (fifty years).

The proposed rule amendments may expand the limited exceptions to these prohibitions to allow: (1) certain additional types of transportation facilities that are normally only allowed in urban areas; (2) other comprehensive plan amendments to allow new uses, including amendments that require an exception to a statewide planning goal; (3) plan amendments to allow new uses that are authorized by future judicial decisions, statutory changes, or rule changes. In addition, the proposed rules would amend OAR 660-027-0040 to clarify that the rule addresses future changes to the Metro urban growth boundary and to the Metro and county reserve designations, rather than other plan amendments.

Chapter 723, 2007 Laws required the Land Conservation and Development Commission (LCDC) to adopt, by goal or by rule, a process and criteria for designating rural reserves pursuant to section 3 of that 2007 Act, and to adopt, by goal or rule, a process and criteria for designating urban reserves pursuant to amendments to ORS 195.145 enacted by section 6 of that 2007 Act.

Effective date: Rules will be effective upon filing with the Secretary of State Office, or by a time specified in the adopted rules.

Documents Relied Upon: Chapter 723, 2007 Laws; ORS 195.137-195.145; Statewide Planning Goals (OAR 660, division 15); OAR 660, divisions 4, 6, 12, 23, 27, 33 and 34.

Fiscal and Economic Impact: Statutory provisions 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.

The proposed amendments may have a positive economic impact on business. Prior to designation of urban and rural reserves, the amendments to local land use regulations applied to reserves would have been authorized under state law. To the extent certain amendments would again be authorized, especially with

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

respect to transportation facilities, the proposed rule amendments may enable additional uses of land designated as urban or rural reserves. At the same time, however, such uses (if approved by local government) could have negative economic impacts on resource uses (agriculture and forestry).

Statutory provisions (ORS 197.040) also require the agency to “Assess what economic and property interests will be, or are likely to be, affected by the proposed rule; ... assess the likely degree of economic impact on identified property and economic interests; [and] assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact.” These requirements “shall not be interpreted as requiring an assessment for each lot or parcel that could be affected by the proposed rule.”

Some economic interests and property owners in the Portland Metro region, particularly lands designated as urban or rural reserves, may be affected by the amended rules. The proposed rules would give counties and Metro somewhat greater authority to allow local plan amendments that could allow new uses. These plan amendments, however, would still be subject to stringent approval standards and may not be allowed by local government. The interests and property owners might be affected, and the degree of such effect, will vary widely among these different interests and properties and cannot be determined at this time. Economic interests will most likely be affected in a positive way by these new rules, because the amended rules generally increase the range of potential uses of land designated as urban or rural reserves.

Administrative Rule Advisory Committee consulted? Yes.

If not, why?

Signer and Date

Richard Whitman, Director

Printed name