

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, Ocean and Coastal Division
Agency and Division

660

Administrative Rules Chapter Number

Amend rules governing Oregon's implementation of Federal Coastal Zone Management Act federal consistency requirements.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed amendments to OAR 660 – Division 35, governing Oregon's implementation of Federal Coastal Zone Management Act federal consistency requirements.

Statutory Authority: ORS 197.040; 183.332

Other Authority: 15 CFR Part 930

Stats. Implemented: ORS 196.435

Need for the Rule(s): The federal Coastal Zone Management Act of 1972, as amended, contains a “federal consistency” provision that allows states with an approved coastal management program to review federal activities affecting coastal uses or resources. The Department of Land Conservation and Development (department) is Oregon's designated coastal zone management agency, and administers Oregon's federal consistency program. The department administers federal consistency reviews according to the federal requirements outlined in 15 CFR Part 930, and the corollary state rules in OAR 600 – Division 35. The proposed amendments are necessary to bring Oregon's federal consistency review procedures in line with federal requirements, and to clarify that the department will follow the requirements of 15 CFR Part 930 when performing consistency reviews.

Documents Relied Upon, and where they are available: 15 CFR Part 930, available on the department's website 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. 15 CFR 930 is also available on the U.S. Government Printing Office website at <http://www.gpo.gov/fdsys/search/submitcitation.action?publication=CFR> (search for year 2011, Title 15, Section 930).

Fiscal and Economic Impact: The department's federal consistency review authority derives from federal law, and Oregon implements consistency reviews in accordance with federal regulations. The proposed amendments are procedural in nature, bringing Oregon's process for reviewing federal actions in the coastal zone in line with current federal procedures and requirements. Proponents of federal actions that affect coastal uses or resources must submit projects for department review according to federal regulations; these amendments simply clarify that the state review process follows the federal requirements. The proposed amendments do not set any new requirements or have any economic impact beyond what is required by federal law, or beyond what Oregon has previously required of applicants.

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 amendments will not affect state agencies, units of local government, or the public because the amendments simply clarify the requirements and procedures the department will use when reviewing federal actions for consistency with the state's coastal management program. As mentioned above, those requirements and procedures are mandated by federal law and both proponents and the department must comply with those requirements and procedures regardless of the proposed amendments.

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: While it is not possible to estimate the number of small businesses subject to the rule, the number is likely to be minimal. The amended rule applies to projects that will affect coastal uses or resources, thus the types of small businesses and industries potentially subject to the rule include those that undertake projects affecting coastal uses or resources.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: The proposed amendments would not require additional reporting or recordkeeping. Proponents of some large projects may choose to hire consultants to help with permitting and other administrative functions, including preparing consistency materials, but the amendments do not require anything other than what is currently required under federal and state law.

c. Equipment, supplies, labor and increased administration required for compliance: The proposed amendments would not require small businesses to incur costs of equipment, supplies, labor, or administration.

How were small businesses involved in the development of this rule? Because the proposed amendments are procedural in nature, clarifying that the department adopts federal requirements and procedures for federal consistency reviews, the department amended the text without the involvement of small businesses or other outside parties. Small businesses and other interested parties had the opportunity to comment on the governing federal regulations when the National Oceanic and Atmospheric Administration amended the regulations. The department also provides broad notice of proposed amendments to interested parties via a department mailing list and web site.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: The department did not consult an administrative rule advisory committee for the reasons stated above, namely that the proposed amendments are procedural in nature, clarifying that the department adopts federal requirements and procedures.

Signature

Printed name

Date

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