



Farm and Forest Program Modernization Rulemaking

Background

Oregon’s Statewide Land Use Planning Goals 3: Agricultural Lands and Goal 4: Forest Lands have been in place for approximately 50 years. These goals are central to Oregon’s current farm and forest protection programs. These programs exist as dynamic regulatory structures, subject to amendments to state statutes, amendments to administrative rules that interpret and clarify the statutes, and court interpretations that establish case law standards. Over time, the Oregon Legislature, the Land Conservation and Development Commission (LCDC), and the courts have expanded, modified and interpreted these programs to improve their ability to protect working lands and to adapt to changes in public priorities.

Oregon’s farm and forest conservation programs attempt to balance the need for clear and objective statewide standards with local discretion and flexibility to adapt the program to the unique circumstances of individual counties. In some cases, ambiguity in rule language and definitions have resulted in more frequent appeals of certain types of use applications and repeated requests for department guidance from local jurisdictions.

Rulemaking

LCDC initiated the Farm and Forest Modernization Rulemaking with a charge to staff in January 2024 and charge revisions in April 2024. This rulemaking focused on a narrow set of technical items intended to improve the clarity and consistency of farm and forest program implementation across the state and reduce the number of unnecessary local appeals. LCDC directed staff to propose rule changes that:

- Codify identified common law standards
- Result in more consistent implementation of standards
- Provide clarity to counties and potential land use permit applicants

Adopted Rules

Based on public comment received and rulemaking advisory committee conversations, DLCD staff proposed rule amendments to meet the commission’s goals. On December 6, 2024, LCDC adopted rules that include the following items:

	Topic	Summary
Codification of Common Law <small>Adding standards established by the courts into rule, making them easier for counties to find.</small>	Farm Impacts Test	Describes the steps to provide a sufficient analysis under the Farm Impacts Test (ORS 215.296).
	Agritourism Events Standards	Clarifies the requirements to address the existing “incidental and subordinate” and “necessary to support” standards that are applied to certain reviews for agri-tourism events permitted under ORS 215.213(11) or 215.283(4).



	Topic	Summary
Codification of Common Law (continued)	Transportation Facilities on Rural Lands	Clarifies which transportation uses listed in OAR 660-012-0065 are subject to the farm impacts test or the forest impacts test.
	Private Parks	Describes the characteristics of a “private park” allowable in exclusive farm use (EFU) zones.
Other Items	Preparation of Farm Products	Repairs the circular definition of “preparation of farm products”. The rule continues to allow farmers to prepare products produced at other farms in addition to their own products as a “farm use” allowed outright in EFU zones.
	Documentation standard for income	Establishes the IRS tax return receipt as the minimum documentation to be used by counties, on new applications, for verifying income under the existing farm dwelling and farm stand income standards. This rule does not modify the income standards themselves, and it does not create a new enforcement obligation for counties.
	Home Occupation	Clarifies that a Home Occupation business must be accessory to a residential use on the property, and it may not be more intensive in scope or scale than would otherwise be allowed by the legislature.

Items Not Included in the Rulemaking

A number of items discussed by the rulemaking advisory committee were not included in the adopted rules at the recommendation of DLCDC Staff. Items that were considered, but not addressed in the adopted rules include:

Topic	Recommendation
Adding a definition of “processing”	Staff recommended this topic be addressed in a future rulemaking.
Commercial Activities in Conjunction with Farm Use (CACFU)	Staff recommended this topic be addressed in a future rulemaking.
Template test rectangle alignment	Staff will be preparing a guidance document on this topic.
Replacement dwellings	LCDC directed the RAC to provide comment on this item only. Staff will be drafting a white paper on this topic for future consideration.

Questions? Please contact Hilary Foote, Farm and Forest Land Use Specialist, at Hilary.Foote@dlcd.oregon.gov or (503) 881-9249.