Harney Groundwater RAC: Discussion Group Materials
Fiscal Impact Statement Statute, Rule, and a Groundwater Example

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Prepared for Discussion Purposes Only

This document is intended to provide some of the overall statutes and rules governing fiscal impact statements. There may be other policies with specific implications for groundwater rules. Appendix A also provides an example fiscal impact statement from the recent Groundwater Allocation Rulemaking. Appendix B provides the Oregon Department of Justice's checklist for fiscal impact statements. These excerpts were provided to Oregon Consensus by OWRD.

Excerpts of Statutes and Rules Governing Fiscal Impacts

The following are drawn from Oregon Revised Statutes and Oregon Administrative Rules.

183.310 Definitions for chapter.
(10)(a) "Small business" means a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees.

183.333 Policy statement; public involvement in development of policy and drafting of rules; advisory committees.
(1) The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule. The agency may appoint an advisory committee or use any other means of obtaining public views that will assist the agency in drafting the rule. The membership of an advisory committee appointed under this subsection must represent the interests of persons and communities likely to be affected by the rule.
(2) Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue.
(3) If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540.

(4) An agency shall consider an advisory committee's recommendations provided under subsection (3) of this section in preparing the statement of fiscal impact required by ORS 183.335 (2)(b)(E).
(5) If an agency does not appoint an advisory committee for consideration of a permanent rule under subsection (1) of this section and 10 or more persons likely to be affected by the rule object to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be. The membership of the fiscal impact advisory committee must represent the interests of persons and communities likely to be affected by the rule. An objection under this subsection must be made not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations from the committee in the record maintained by the agency for the rule.
(6) An agency may appoint the Small Business Rules Advisory Committee established in ORS 183.407 as the advisory committee or fiscal impact advisory committee for purposes of this section.
(7) Subsection (5) of this section does not apply to any rule adopted by an agency to comply with a judgment or a settlement of a judicial proceeding.
(8) If an agency is required by law to appoint an advisory committee or a fiscal impact advisory committee under this section, the agency may not appoint an officer, employee or other agent of the agency to serve as a member of the advisory committee or fiscal impact advisory committee. [2003 c.749 §4; 2005 c.807 §4; 2013 c.273 §1; 2018 c.20 §3; 2021 c.463 §1]

183.335 Notice; content; public comment; temporary rule adoption, amendment or suspension; substantial compliance required.
(2)(b) The agency shall include with the notice of intended action given under subsection (1) of this section:
(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
(B) A citation of the statute or other law the rule is intended to implement;
(C) A statement of the need for the rule and a statement of how the rule is intended to meet the need;
(D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list;
(E) A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on

businesses which shall include a cost of compliance effect on small businesses affected. For an agency specified in ORS 183.530, the statement of fiscal impact shall also include a housing cost impact statement as described in ORS 183.534;

183.336 Cost of compliance effect on small businesses.

(1) The statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) must include:
(a) An estimate of the number of small businesses subject to the proposed rule and identification of the types of businesses and industries with small businesses subject to the proposed rule;
(b) A brief description of the projected reporting, recordkeeping and other administrative activities required for compliance with the proposed rule, including costs of professional services;
(c) An identification of equipment, supplies, labor and increased administration required for compliance with the proposed rule; and
(d) A description of the manner in which the agency proposing the rule involved small businesses in the development of the rule.
(2) An agency shall utilize available information in complying with the requirements of this section. [2005 c.807 §2]

183.405 Agency review of rules; report by Secretary of State.

(1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:
(a) Whether the rule has had the intended effect;
(b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
(c) Whether subsequent changes in the law require that the rule be repealed or amended;
(d) Whether there is continued need for the rule; and
(e) What impacts the rule has on small businesses.
(2) Upon request of an agency, the Small Business Rules Advisory Committee established in ORS 183.407 may agree to complete the review and reporting required by this section for the agency.
(3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.
(4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:
(a) To the Secretary of State;
(b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and
(c) If the agency appointed an advisory committee pursuant to ORS 183.333 for consideration of a rule subject to the requirements of this section, to the advisory committee.
(5) The provisions of this section do not apply to the amendment or repeal of a rule.
(6) The provisions of this section do not apply to:
(a) Rules adopted to implement court orders or the settlement of civil proceedings;

(b) Rules that adopt federal laws or rules by reference;
(c) Rules adopted to implement legislatively approved fee changes; or
(d) Rules adopted to correct errors or omissions.
(7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by ORS 192.245 no later than February 1 of the following year. [2005 c.807 §3; 2017 c.518 §6; 2018 c.20 §4]

183.540 Reduction of economic impact on small business.
If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:
(1) Establishing differing compliance or reporting requirements or time tables for small business;
(2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
(3) Utilizing objective criteria for standards;
(4) Exempting small businesses from any or all requirements of the rule; or
(5) Otherwise establishing less intrusive or less costly alternatives applicable to small business. [1981 c.755 §4; 2003 c.749 §7; 2005 c.807 §6]

137-001-0018 Limitation of Economic Effect on Small Businesses
(1) Before the adoption of a permanent rule, the agency will determine whether the economic effect upon small business is significantly adverse, based upon:
(a) The economic effect analysis under ORS 183.335(2)(b)(E);
(b) The statement of cost of compliance effect on small businesses described in ORS 183.336;
(c) Recommendations from any advisory committee appointed under ORS 183.333(1) or from any fiscal impact advisory committee, if any, appointed under ORS 183.333(5); and
(d) Comments made in response to its rulemaking notice.
(2) If the agency determines there is a significant adverse effect on a small business or small businesses, it shall modify the rule to reduce the rule's adverse economic impact on those businesses to the extent consistent with the public health and safety purposes of the rule, as provided in ORS 183.540.

Statutory/Other Authority: ORS 183.341

137-001-0087 Objections to Statements of Fiscal Impact
(1) An objection to a fiscal impact statement must be filed in writing and must:
(a) Identify the fiscal impact statement to which objection is made;
(b) Identify the persons likely to be affected by the proposed rule on whose behalf the objection is filed or, if filed by an association, assert the number of members of the association who are likely to be affected by the proposed rule;
(c) Explain how the persons identified are likely to be affected by the proposed rule;

(d) Explain the objection or objections to the fiscal impact statement; and
(e) Be sent to the mailing address or electronic mail address identified in the notice of proposed rulemaking for the submission of written comments.
(2) An objection to a fiscal impact statement is deemed made for purposes of ORS 183.333(5) when received by the agency.
(3) If the agency appoints a fiscal impact advisory committee, the agency shall make a good faith effort to ensure that the committee's members represent the interests of persons likely to be affected by the rule. The meetings of the fiscal impact advisory committee shall be open to the public.
(4) If the agency determines that the original fiscal impact statement does not adequately reflect the proposed rule's fiscal impact, the agency will file an amended fiscal impact statement, extend the comment period as required by ORS 183.333(5), and give notice of the extended comment period to:
(a) The persons or organizations that have filed objections under section one of this rule;
(b) The persons specified in the agency's notice rule adopted in accordance with ORS 183.335(1)(a);
(c) The persons on the agency's mailing list maintained in accordance with ORS 183.335(8); and
(d) Legislators specified in ORS 183.335(15).

Statutory/Other Authority: ORS 183.341

Appendix A: Groundwater Allocation Rulemaking Fiscal Impact Example

This excerpt is drawn from the Notice of Proposed Rulemaking (at page 9).
https://www.oregon.gov/owrd/Documents/NoticeFilingTrackedChanges%20%284%29.pdf

FISCAL AND ECONOMIC IMPACT:

The Oregon Water Resources Department (OWRD) is updating the review process for new groundwater applications, to ensure sustainable use of groundwater resources while protecting existing surface and groundwater rights holders. If adopted, the proposed rule changes are likely to have both positive and negative economic impacts; however, failure to enact new rules also is likely to lead to both positive and negative economic consequences.

According to Pilz et al. (2023), approximately 48% of Oregon's total economic output and 44% of the state's employment rely on water-dependent businesses. Notably, these estimates are conservative, because they do not include the economic contributions from recreation, commercial fishing, or power generation (Pilz et al. 2023). Approximately 22% of all of Oregon's water withdrawals come from groundwater; just over 80% of those groundwater withdrawals are for irrigation purposes (Dieter et al. 2018).

Pilz et al. (2023) examined the state's water-dependent businesses, revealing the following regarding overall contributions to the state's economy:

--Economic modeling suggests industry (includes manufacturing, health care/hospitals, colleges/universities, hotels/motels, restaurants/food service, car washes, dry-cleaning/laundry, landscaping/horticulture, breweries/wineries, waste remediation) contributes $88.8 billion annually.

--In 2017, freshwater-related outdoor recreation contributed $63.2 billion (citing Rosenberger 2018).

--Economic modeling suggests irrigated agriculture contributes $7.3 billion annually.

--In 2017, coastal commercial salmon fishing contributed $28.4 million (citing ECONorthwest 2019).

The proposed rule changes will protect the substantial investment Oregon has made in these and other water-dependent businesses because the revised process will protect existing uses by limiting issuance of new groundwater rights to when water is available for appropriation. However, because OWRD anticipates issuing fewer new groundwater rights through the updated process, some new or expanding water-dependent businesses may face challenges securing new water rights while other new businesses that rely on adequate river flows and lake levels may benefit from adoption of the proposed rules. For example, growth of irrigated agriculture may need to be supported by water conservation actions that result in conserved water or, through transfers of existing water rights where new water rights are not available. On the other hand, water-dependent recreation and tourism as well as commercial fishing may experience growth due to healthier aquatic ecosystems.

Failure to act through rule changes also may result in adverse economic impacts, including those stemming from the cost of remedial action needed to address groundwater level declines and reduced streamflow. The cost of measures needed to remediate the impacts of groundwater overallocation on domestic and irrigation well users in the Harney Basin are a good example. According to Pilz et al. (2023), private wells in Harney County have experienced dramatic declines in static groundwater levels by as much as 140 feet and in some cases wells have gone dry. Anderson Perry & Associates (2020) estimate as many as 1,086 households in unincorporated parts of the County rely on exempt wells for their domestic water. Pilz et al. (2023) estimated the full economic impact of providing an alternative water supply source to these 1,086 households in the event of well failure to range between $7.5 million and $10.5 million. With respect to irrigation use, the United States Department of Agriculture estimates a cost of more than $58 million to retire 20,000 acres of groundwater irrigated cropland in the Harney Basin Conservation Reserve Enhancement Program (CREP).

The average cost to assist homeowners with dry domestic wells under the Department's Well Abandonment Repair and Replacement Fund is $26,500 per well. The Department estimates that approximately 40,000 more domestic wells are at risk of going dry in the absence of this rulemaking (Scandella 2024b), translating to hundreds of millions of dollars in total costs. Moreover, in the absence of the rulemaking, other domestic wells may go dry seasonally, requiring domestic owners to rely on alternatives, again translating to additional costs.

Consequently, the costs associated with failure to act through this rulemaking will be borne by state and federal agencies that seek to address the impacts of overallocation, as well as the costs to existing water users and domestic well owners that must make changes because of their supplies not being sustainable.

COST OF COMPLIANCE

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Additional costs to OWRD stemming from the rulemaking are difficult to quantify. Because OWRD most likely will issue fewer groundwater rights due to the rule changes, OWRD may see an early uptick followed by a decline in applications for new ground water rights and start cards for new well construction where water remains available for allocation. OWRD cannot estimate the associated revenue impacts as it is not possible to determine how many applications will be received after the rules are adopted. OWRD estimates that each new groundwater right application fee may range between $2,000 and $7,500 depending on the amount of volume requested. However, these fees only cover roughly half the cost of administering the review process.

OWRD may experience an increase in the number of transfer applications in areas where groundwater is not available for allocation to new water rights; however, OWRD cannot forecast how many transfers may be requested. OWRD estimates that each new transfer application fee ranges between $1,840 (to change the location of a single well involving a small water volume) to $5,860 or more (for changes involving multiple well locations, multiple water rights, and/or large volumes of water). Notably, these application fees only cover slightly more than half the cost of administering the water rights transfer review process.

OWRD also anticipates increased legal costs associated with challenges to the new rules as well as disputes over denial of new water rights applications; however, the Department cannot predict how many of those may occur. OWRD estimates that each contested case hearing costs the Department between $50,000 and $100,000 (Perkowski 2023).

Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, and other state agencies may experience additional costs in terms of time and effort to interpret and apply the new rules (e.g., Division 33 reviews). These agencies also may experience increased legal costs associated with disputes over denial of new water rights applications; some but not all these legal costs are passed on to OWRD.

Local governments also may experience additional costs associated with the implementation of the new rules, including the need to explore additional water conservation and efficiency measures and/or acquire existing water rights through the transfer process rather than develop new rights to meet future demands. Ratepayers may experience higher water bills because of rising costs associated with local government providing water for residential and commercial use. Rising costs also may require local governments to revise their comprehensive plans by rebalancing projected water supply needs to ensure they are able to meet conflicting demands, including provision of affordable housing. OWRD notes that even in the absence of the new rules, acquisition of new groundwater through either application or purchase and investing in new infrastructure to access those new rights may not be as cost-effective as either enhancing conservation and efficiency measures or transferring the type of use, place of use, and/or point(s) of diversion/appropriation authorized under existing water rights.

OWRD cannot estimate how many cities may be affected, because the Department cannot predict how many cities would seek to apply for a new water right and would be successful under the current as compared with the proposed rules. A preliminary review of approved Water Management and Conservation Plans (WMCPs) submitted by municipalities suggests that few of those relying on groundwater to meet at least half of their water supply needs will need to acquire new groundwater rights within the next 20 years, as outlined by OAR690-086-0180(8). Notably, several WMCPs predate the most recent 2020 U.S. Census data as well as the Covid-19 pandemic and may not reflect the most current population and employment trends (either positive or negative). With few exceptions, these WMCPs also predate the Oregon Governor's recent affordable housing goals (see Executive Order No. 23-04 and House Bill 2001(2023)), which may necessitate municipalities updating comprehensive plans and WMCPs to rebalance economic priorities to achieve these goals.

With respect to municipalities, the likelihood of approval under the current as compared with the proposed rules will vary depending on many factors, including the requested aquifer location and the quantity of the requested use. Also noteworthy, municipal water rights applicants are somewhat unique because unlike most new water rights applicants, municipalities may reserve unappropriated water for future economic development (ORS 537.140, 537.356, 537.358), may reserve for needs 20 years into the future with the possibility of extensions to further develop a water right permit in response to changing economic circumstances (ORS 537.230, OAR 690-315-0090), are exempt from forfeiture (ORS 540.610), and receives preference under the public interest presumption that prioritizes water for human consumption over other purposes when other proposed uses of water mutually conflict or when available water supplies are insufficient to meet human consumption needs (ORS 536.310(12), OAR 690-310-0110, OAR 690-310-0130). Because the new rules protect existing water rights holders, municipalities with existing water rights will benefit from the rulemaking. Also, because the new rules will result in the issuance of fewer new groundwater rights based on groundwater availability for allocation, the unique treatment municipalities receive during water rights application reviews suggests that municipalities may not be impacted as much as other water use sectors seeking new groundwater rights.

The Oregon Ground Water Association (OGWA) has suggested that the well construction industry may experience adverse economic impacts due to the rulemaking because fewer groundwater rights issued in the future may mean fewer new wells constructed, particularly for irrigation purposes. Oregon has approximately 90 well construction companies employing just over 100 licensed water well drillers. OWRD notes that these rules do not impact the construction of exempt use wells, nor do they impact well reconstruction, deepening, or abandonment. Moreover, there is a significant backlog of customers waiting for construction of authorized wells such that these rules are not expected to impact the well construction industry in the near-term.

In response to OGWA input, OWRD has compiled the following information pertaining to the construction of new irrigation wells to access new groundwater rights issued for the purpose of irrigation:

Year, Number of New Wells Constructed to Access New Groundwater Rights

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2014, 154
2015, 170
2016, 121
2017, 101
2018, 100
2019, 93

2020, 91
2021, 55
2022, 50

Since 2014, the number of new wells constructed to access new groundwater rights for the purpose of irrigation has declined by approximately 68%. The reasons for the decline are complex. For purposes of providing a range of potential economic impacts, OWRD has chosen a high value of 100 new irrigation wells constructed to support new groundwater rights (the number predating the Covid-19 pandemic) and a low value of 50 new wells constructed (the most recent number).

For any new well construction, costs are highly variable, depending on the location, depth, diameter, materials, and nature of the proposed groundwater well itself, as well as a drilling contractor's operating expenses including wages, benefits, and overhead. During the RAC process, OGWA suggested that new well construction may range between $50,000 and $1M, averaging about $140,000 per new irrigation well, which translates to $7M (for 50 new wells) to $14M (for 100 new wells) in direct statewide well construction revenue.

OWRD anticipates many new groundwater rights under the proposed rules will be denied. OWRD has compiled the following information examining the range of potential economic impacts on well construction arising from issuance of fewer new groundwater rights supporting irrigation use:

Scenario 1:
Hypothetical Reduction in New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation: 25%
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 50 wells): $1.75 Million
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 100 wells): $3.5 Million

Scenario 2:
Hypothetical Reduction in New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation: 50%
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 50 wells): $3.5 Million
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 100 wells): $7.0 Million

Scenario 3:
Hypothetical Reduction in New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation: 75%
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 50 wells): $5.25 Million

Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 100 wells): $10.5 Million

Scenario 4:
Hypothetical Reduction in New Wells Constructed to Access New Groundwater Rights Issued for the Purpose of Irrigation: 90%
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 50 wells): $6.3 Million
Hypothetical Reduction in Revenue Generated Statewide (assuming $140,000/well and 100 wells): $12.6 Million

In other words, the hypothetical economic impact on well construction associated with the issuance of fewer groundwater rights for the purposes of irrigation may range from approximately $1.75M in reduced revenue statewide to $12.6M in reduced revenue statewide.

However, the continued over-allocation of Oregon's groundwater resources has led to more existing domestic wells going dry, which has increased business for Oregon's well drillers. The rules are likely to also reduce the number of domestic wells that go dry. As a result, there may be additional revenue reductions; however, given that well drillers have been unable to keep up with demand; it may not actually affect revenues.

(2)(a) Estimate the number and type of small businesses subject to the rule(s);

ORS 183.336 requires agencies to use available information to estimate the number and type of small businesses likely to be subject to the proposed rules. A small business is defined as "a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses, and which has 50 or fewer employees" (ORS 183.310). Example of types of small businesses that may be impacted either positively or negatively by the proposed rules include well drillers, private water systems, small farms, ranches, nurseries, vineyards, recreational outfitters, recreational guides, commercial fishing, mining, consultants, and law firms.

According to the State of Oregon Employment Department (2023), there are just over 170,000 small businesses in the state (as defined by ORS 183.310) that pay unemployment insurance (UI) taxes. The sector breakdown is as follows:

Sector, Number of Small Businesses

Natural Resources and Mining, 4,940
Construction, 18,184
Manufacturing, 6,088
Trade, Transportation, and Utilities, 21,683
Information, 6,077
Financial Activities, 11,304

Professional and Business Services, 33,601
Education and Health Services, 25,830
Leisure and Hospitality, 12,673
Other Services, 16,723
Government, 506
Unclassified, 12,757

All Sectors, 170,366

Notably, this accounting does not include many businesses within the agricultural sector that are not required to pay UI taxes. OWRD does not have information on the number of small agricultural businesses as defined by ORS 183.310. According to the 2022 Census of Agriculture (USDA 2024), there are just over 35,500 farms in Oregon, two-thirds of which are under 50 acres in size.

OWRD cannot estimate how many of small businesses reporting UI taxes are water dependent. Similarly, the Department cannot estimate how water-dependent small businesses or small farms may be affected, because the Department does not have information available to predict how many persons or entities would seek to apply for a new water right through purchase or transfer and would be successful under the current as compared with the proposed rules. The Department also does not have information concerning how future water markets may evolve in response to limited availability of future water rights. The likelihood of approval under the current as compared with the proposed rules also will vary depending on the requested aquifer location. Furthermore, OWRD cannot predict the desired expansion of irrigated agriculture, manufacturing, commercial fishing, outdoor recreation, and other water-dependent businesses.

(2)(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

In response to the new rules, OWRD will update the water rights application to reflect that no new water rights will be issued if an affirmative finding of groundwater availability cannot be made. In some cases, applicants may be permitted to collect additional data and other information to support their applications, which may contribute to the overall cost of obtaining a new water right under the new rules. However, OWRD does not anticipate that the cost of ongoing reporting, recordkeeping, or administrative activities will increase because of the rulemaking.

(2)(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

Currently, water rights applicants rely on consulting services. Under the new rules, applicants may increase their reliance on these services. However, OWRD does not anticipate that the cost of equipment supplies, labor or administration will increase because of the rulemaking.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Rules Advisory Committee included members representing small businesses most likely to be affected by this rulemaking, including farmers, ranchers, wineries, nurseries, irrigators, well drillers, and consultants.

Appendix B: Oregon Department of Justice Checklist for Statement of Need and Fiscal Impact

http://sos.oregon.gov/archives/Pages/oregon_administrative_rules.aspx
This information comes from the Oregon Department of Justice.

Statement of Need

- ☐ What need is the agency trying to address through the proposed rule change?
- ☐ How does the proposed rulemaking address that need?
- ☐ Can interested parties tell why the agency is proposing a rule change by reading the Statement of Need?

Statement of Fiscal Impact

- ☐ Are any state agencies likely to be economically affected by the rule change? If yes, which ones?
- ☐ Are any units of local government likely to be economically affected by this rule change? If yes, which ones?
- ☐ Are any members of the public likely to be economically affected by the rule change? If yes, which ones?
- ☐ Can the agency provide an estimate of the economic impact on state agencies, units of local government and members of the public? If yes, what is the estimate for each?
- ☐ Has the agency included a cost of compliance on small businesses affected, including:
  - ☐ An estimate of the number of small businesses subject to the proposed rule;
  - ☐ An identification of the types of businesses and industries subject to the rule;
  - ☐ A description of expected reporting, recordkeeping, and administrative activities required to comply with the rule;
  - ☐ An estimate of the cost of professional services required to comply with the rule;
  - ☐ An identification of the equipment, supplies, and labor and increased administration required to comply with the rule; and
  - ☐ A description of how small businesses were involved in developing the rule.
- ☐ If the agency cannot provide an estimate of the economic impact on state agencies, units of local government or members of the public, does the statement of fiscal impact explain why an estimate is not possible?
- ☐ Does the agency need to provide a housing cost impact statement?
- ☐ Is the fiscal impact statement sufficient to notify those who might be economically affected to evaluate their position?

Request for Public Comment

- ☐ Does the notice or fiscal impact statement invite public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact on business?