



Oregon

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Date: July 2, 2024

To: Goal 9 Target Industries Approach Rulemaking Advisory Committee

From: Gordon Howard, Community Services Division Manager
Leigh McIlvaine, Economic Development Specialist



Re: Materials for July 9, 2024, Meeting

Dear Rulemaking Advisory Committee Members,

Thank you for your continued participation in the Goal 9 Target Industries Approach rulemaking process. The final anticipated meeting of the Rulemaking Advisory Committee (RAC) will be held over Zoom on Tuesday, July 9th, 2024, from 9:00a.m. – 12:00p.m. All RAC members have received an invitation to the Zoom meeting. We invite everyone else to watch via the livestream on DLCD's YouTube channel <https://www.youtube.com/@OregonDLCD>. This link is published on the agenda and on the project webpage at:

<https://www.oregon.gov/lcd/LAR/Pages/Goal9Target.aspx>.

Attached, please find the meeting agenda and other materials for RAC members. Please make your best effort to review materials prior to each meeting. Our third and final anticipated meeting will be focused on discussion of fiscal impacts of the proposed rule amendment to the public, state agencies, local governments, and small businesses. Impact statements produced by Johnson Economics are included in your packet. Staff has drafted minor updates to the proposed rule amendment based on earlier discussion and feedback received from RAC members. The most important documents for you to review in advance of the meeting are the impact statements and final draft rule included in your packet.

Thank you again for your support in this important effort. We look forward to convening again on July 9th.

Attachments: Packet Contents

1. Meeting Agenda
2. May 2, 2024, Meeting Minutes
3. Fiscal Impact Statement (Johnson Economics)
4. Final Draft Rule Language for Committee Consideration
5. RAC Member Comments:
 - a. Fredericka Banks
 - b. Farmland First
 - c. 1000 Friends of Oregon



Goal 9 Target Industries Approach Rulemaking Advisory Committee

Meeting Agenda

July 9, 2024

9:00a.m. – 12:00p.m. (noon)



This meeting will be livestreamed at the Department of Land Conservation and Development (DLCD) YouTube page: <https://youtube.com/@OregonDLCD>. After the meeting, the recording link and other materials will be posted to DLCD's Rulemaking page here on <https://www.oregon.gov/lcd/LAR/Pages/Goal9Target.aspx>. To share written public comment with staff and the members of the Rulemaking Advisory Committee (RAC), please submit written comments to Casaria.taylor@dlcd.oregon.gov.

This meeting will be hosted online. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Casaria Taylor at (971) 600-7699, Casaria.taylor@dlcd.oregon.gov, or by TTY: Oregon Relay Services (800) 735-2900. Thank you!

9:00a.m. – 9:15a.m.	Agenda Review, Packet Overview
9:15a.m. – 10:30a.m.	Review of Fiscal Impact Statement
10:30a.m. – 10:40a.m.	Break
10:40a.m. – 12:00p.m.	Review of Final Draft Target Industries Rule

**Goal 9 Target Industries Approach
Rulemaking Advisory Committee**

Meeting Minutes

May 2, 2024

9:00am – 12:00pm (noon)

Attendance:

Gordon Howard, DLCD	Ted Reid, Metro Regional Government
Commissioner Ellen Porter, LCDC RAC Liaison	Andrea Klaas, Port of The Dalles
Leigh McIlvaine, DLCD	Bryan Pohl, City of Forest Grove
Casaria Taylor, DLCD	Caroline Ervine, City of Prineville
Alexis Hammer, DLCD	Allie Camp, City of Springfield
Bill Reid, City of North Plains	Anthony Riederer, City of Hillsboro
Mathew Craigie, Washington County	Jay Blake, Clatsop County
Jaclyn Disney, OCWCOG	Fredericka Banks, Low Income Advocacy
Denise Stilwell, SCOEDD	Dave Hunnicutt, Property Rights Advocate
Jerry Johnson, Johnson Economics	Beth Goodman, Real Estate/Consulting Firm
Nellie McAdams, Farm Bureau/Agricultural	Heather King, Environmental/Climate Advocacy
Gil Kelley, 1000 Friends of Oregon	

Welcome/Introductions

Staff invited all members of the RAC to introduce themselves and identify their favorite Oregon-based business. The RAC reviewed the agenda and packet materials.

Staff provided an overview of sample EOAs linked from the DLCD website, which were evaluated based on target industry definitions, total land need, rationale for site requirements, relationship to forecasted employment growth, local measures protecting target industry sites, and whether the industry developed.

Staff pointed out that target industries are identified at a level of NAICS that is 2, 3, or 4 digits, with outliers of less specific than 2, and specific businesses. Typical target industries tend to fall within manufacturing and health care and medical services.

Total land need of target industries was difficult to estimate because some approaches integrate target industries into overall employment forecast before translating to land need. Site needs justification was provided through Business Oregon, or modeled on nearby communities, or based

on interviews with businesses. The great majority of the example EOAs assigned additional expected jobs through the target industries approach to appropriate economic sectors in the forecast. Some cities examined already have, or recommended policies to preserve sites for significant target industries.

A committee member noted that all site needs in sample EOAs appear to be industrial and asked whether retail would be included as a potential target industry, or other uses without very specific site needs.

Staff responded that cities that use several target industries are more likely to aggregate and generalize those sites.

A committee member noted that highly specific target industries reflecting existing businesses are easy to provide appropriate analysis, but sometimes a city would just connect it to a sector's growth forecast. But the similarity is how cities expect to change future growth trajectories and that's what this approach allows.

A committee member noted that regional considerations should be taken into account, including level of alternatives analysis, and that these methods may turn into relatively large UGB expansions with subordinate uses.

A committee member responded that their city's target industries approach used this methodology to accommodate a wide variety of industries of various sizes and types with different development patterns, but that these are all rapidly growing industries in close proximity to existing clusters. The city looked to development patterns in neighboring jurisdictions and used those examples to inform their target industry land need. But the city didn't have existing industry to look to in order to justify growth expectations through an employment growth forecast. They tried to be as specific as possible.

A committee member asked if this process would apply equally to all jurisdictions and was echoed by another inquiry about whether this will be the same approach for cities inside and outside of Metro's jurisdiction.

Staff responded that all cities are subject to Division 9 rules, but that not all cities control their UGB expansion. A committee member noted that the Metro Urban Growth Report should be anticipating employment land need inside the Metro region.

A committee member noted that some small jurisdictions can easily justify site needs with "bird in hand" economic development prospects.

A committee member noted the importance of environmental and transit considerations so that people can access future development, without having to deal with traffic or rely on cars. Cities can develop in ways that still have a small town feel but have transit amenities for commuters coming in.

Staff walked the RAC through the draft rule revision, noting three-digit NAICS has been integrated into the definition, as well as referencing a specific year.

A committee member noted that the regional geography and decisions criteria around how much development should be expected would be helpful. Staff noted that the issue was beyond the rulemaking charge provided by the commission.

Staff noted that Section 25 would see significant changes, dividing up approaches into generic employment land need and site-specific need identified through the target industries approach. Staff pointed out that the revised rule allows cities to cluster together several similar target industries so that cities do not need to be overly specific in predicting the future.

Additional revisions to the draft rule include language related to Business Oregon and more flexibility in how cities may provide justification for site needs.

A committee member expressed appreciation for the clustering potential of target industries and questioned what might constitute grounds for an appeal, and what kind of justification or findings a city would need to provide to demonstrate industry relatedness.

A committee member inquired if Business Oregon provides site requirements, and how land supply of vacant and redevelopable is defined in rule.

Staff replied that the commission has not directed the department to address definitions of development status. And that Business Oregon is a possible source but only one of many that can be used to provide site requirements justification.

A committee member noted it would be helpful to define what typical site characteristics are, including diversity of ownership and site aggregation expectations.

A committee member noted that Business Oregon's guidance is vague. Staff responded that it's a difficult line to walk between flexibility and prescriptive.

A committee member noted that three-digit NAICS is more specific than most economic development people would prefer, and that industry site guidelines change frequently.

A committee member identified housing concerns, related to connecting workplaces to housing, and that transportation is a key consideration, urging other members to think this through as a part of this rule revision.

Staff noted a new section of the rule, heavily modified based on committee input, related to site protections and possible uses. So we're proposing that sites designated for target industries may be developed for unanticipated employment based upon adopted findings that the proposed non-target industry. That allows cities to allow a target industry site to develop with another but equally or more valuable, including potential use that they did not anticipate through their target industries approach in their EOA. Subsection B essentially provides some zoning restrictions and prevents a target industry site zoned for industrial use from being rezoned to commercial or residential use. And then a target industry site that is zoned for a different type of employment use. Cannot be rezoned for residential use.

If a city has employment land identified through a target industry approach that is not developing as expected, they will need to conduct another economic opportunities analysis that demonstrates that land is no longer necessary for employment use.

A committee member questioned equal or higher economic benefit, and how it would be defined.

A committee member echoed - Does local economic benefit include? Or Impacts to the property tax base.

A committee member asked whether a semiconductor site would be allowed to be used for a transportation and warehousing facility, since they are different. The member asked to think through some examples of how this would work and what types of shifts would be allowable.

A committee member asked what would happen if there are no suitable sites for a target industry.

A committee member suggested to use the phrase “community benefit” rather than “economic benefit” and asked about the cost of an EOA to change direction on a target industry site. Staff replied that an EOA can cost between \$40 to \$100k, acknowledging the expense, but also noting that this rulemaking clarifies the process, potentially saving legal expenses. And that the target industries approach is not a required approach.

A committee member asked about the possibility of using a more collaborative approach between multiple cities.

A committee member inquired whether infrastructure considerations should be included in this section, including a requirement for a long term capital plan.

Staff invited members to reflect on the NAICs specificity in the definition.

A committee member responded that 3 digit NAICs are fairly specific, and clustering is useful, but wondered if this would lead to cities trying to list every possible target industry with less clarity on economic development opportunities. The committee member noted that different industries sometimes have the same site requirements, and urged that Business Oregon update its site requirements matrix. There is some question about definitions for things like “clean tech” that include many different NAICs.

A committee member noted that industries can change quite a bit over a 20 year forecast, so flexibility is important. But that a lot of target industries are accommodated on spec industrial space, or multi tenant uses. The rule should remain flexible on who can use space, but not for an obvious bait and switch.

Staff noted that flex and spec industrial space would not be provided via the target industries approach, but that there is flexibility. And cities are not required to use this approach.

A committee member noted that there are 96 3 digit NAICS codes, and that they have no issues with identifying alternatives.

A committee member reiterated that several approaches are possible and that the target industries approach doesn't necessarily provide a wide degree of flexibility for spec industrial space, and emphasized the need for updated site characteristics matrix from Business Oregon.

A committee member noted that the 5 year update schedule for NAICS would impact cities that are mid-EOA when definitions are updated.

A committee member pointed out that it would help the department to clarify that a hybrid approach using both a safe harbor and a target industry is possible.

A committee member advocated that the target industries approach should only apply to industrial uses, since they have more site specific requirements.

A committee member asked if there are other ways to define a target industry outside of NAICS? Staff responded that NAICs are the most expedient, and allow for any industry that is not retail.

A committee member noted that economic development and land use don't always speak the same language. And also pointed out that retail sometimes is a target industry when its connected to tourism. Woodburn factory outlets.

DLCD staff stated that it is not the goal of the state to put large new retail facilities in the areas where we're going to be doing UGB expansions.

A committee member advocated for mixed use with ground floor employment uses and housing above. Accessibility and green spaces.

A committee member asked that the dept consider ancillary uses included to support the industrial use, including amenities for workers like food service, childcare, office, etc.

A committee member said that excluding uses excludes people's livelihoods and the city's ability to stay solvent. A small city in the metro area has few options and wants 2 digit code definitions.

A committee member agreed, stating that limited uses limits key parts of the economy. And perhaps very small cities should be able to target retail, if they need a grocery store.

Staff requested feedback on integration of the target industries approach into Div 9, versus special carveout, and invited committee members to respond.

A committee member respond that this should be an optional approach, not required with every EOA.

Another committee member noted that the rule should be explicit about this being an optional approach.

A committee member noted that this should be a regional approach with local outcomes.

A committee member noted that this approach satisfies a large land need, for aspirational industries, and questioned whether the EOA should require cities to demonstrate their ability to service that land. And Goal 1 participation considerations are important. There is opportunity cost, including cost to farm and forest industries and resources when that land is taken out of production.

A committee member noted that there should be a reasonable relationship between the target industry approach and the employment forecast – that the sky cannot be the limit. Regional forecasting should play a role.

A committee member expressed concern about the regional approach, noting that if North Plains wants to expand, and so do neighboring cities, we shouldn't interfere with that. It's the city's determination. We shouldn't be picking cities as winners. And what if a business doesn't like the chosen site? Who gets to decide the winners and losers? The regional approach is fraught with difficulty.

Staff invited feedback on site requirements matrix and other methods of providing site needs rationale.

A committee member responded that thinking in terms of acreage rather than square feet might limit city's creativity to use space efficiently.

A committee member urged flexibility in source, since emerging trends will not always be reflected by state resources. Other sources can be really helpful, including site selection info. The committee member advocated that Business Oregon should provide information/summaries about what kinds of sites businesses are looking for when they receive inquiries. This would be helpful for findings.

A committee member advocated for more flexibility in site needs requirements/justification.

A committee member agreed that square footage is preferable to acreage, citing examples of infill in NE Portland.

A committee member asked for DLCDC to keep an evolving list of sources for site requirements rationale on its website, to help screen for credibility and keep things up to date and industry specific.

A committee member advocated for more involvement with Businesses Oregon, noting the need for an update to the site requirements matrix but that bringing BizOR into the process early helps with infrastructure, and industrial site preparation. Small cities will benefit from collaboration with Business Oregon. BizOR doesn't deal with all the site inquires and brokers can handle the majority of them. Businesses are looking for sites by site size because they can secure a site, then develop a portion of it and plan to grow over time. Square footage is not an appropriate measurement.

A committee member noted that industrial space is going at a premium right now, and that changes the type of development that cities should expect to occur.

A committee member noted that cities would benefit from pre-vetted site requirements materials that would provide comfort, consistency, predictability would be advantageous, almost like a safe harbor source.

Staff posed the question of how a city should designate, protect, and preserve sites it is identifying through the target industries approach. Staff reviewed the rule draft and invited comments.

A committee member questioned whether there should be different levels of protection for land already inside the UGB, and if protections should be more strict for new land.

A committee member disagreed, arguing that large sites need to be protected from land divisions, even with existing parcels inside UGBs. A long term capital plan should be included with target industry sites, so that doesn't get in the way of their development. The committee member commented on the difficulty of landing on "equal or higher economic benefit" but that DLCDC could evaluate this. Would need to provide guidelines or information to help with these decisions. Challenging to get parties on each side to agree with those words.

Staff replied that this language is intentionally open so that the discussion will be had at the local level.

A committee member noted that economic development doesn't really speak to how communities will really look, it's like dropping a pebble into a pond with the ripples going out affecting everything. How is accessibility going to work? Socially, civically, or economically are important considerations.

A committee member suggested that staff look to the central Oregon regional large lot site protection language.

A committee member stated that the language is vague, and that will result in the Court of Appeals doing the job of determining whether a use is appropriate.

A committee member expressed concern that this would limit potential development opportunities for land owners, and expressed that housing production targets will soon have an impact on cities. Wondered if there is conflicts between this and OHNA.

A committee member approved of protecting the site size, but noted that there is variance between sites already in the UGB. Property owners are difficult to predict, property owner disposition is a difficult variable to address. Cities are not always in control of these issues. The committee member supported the language change from economic to community benefit, and asked for clarification on requirements, such as payroll or another metric. Also expressed support for allowing some small amount of commercial development in industrial zones.

A committee member expressed concern that this approach could end up with vacant undeveloped site surrounded by other sites until the target industry shows up. A key consideration is the amount of property tax revenue industrial sites can generate, residential should not be allowed but maybe a small amount of commercial.

A committee member noted that "community benefit" might refer to nontaxable uses, and could dilute limited industrial lands. Fiscal balance is an appropriate justification, to help cities and local governments with local tax revenues.

Staff agreed, noting that community benefit might be interpreted as housing, but that other elements of the rule will protect against that.

A committee member requested that claw back provisions be considered as a part of the target industries approach if an industry doesn't materialize. What happens if everybody is using target industries approach in that region and there is an oversupply of land for a particular use? This is why a regional approach as used by Phoenix and Medford is a good solution. It's highly unlikely that agricultural land will return to production after its in the UGB.

A committee member noted that there are already some rails around preserving a site for target industry use, because a city is on the hook for mainline infrastructure serving that site, the capital improvement plan, and any financial vehicles that the city uses to fund those improvements may include sideboards on development outcomes. Cities don't have a financial motivation to develop sites with uses that don't produce property tax. Zoning is already a restriction.

A committee member stated that the target industries approach should be defined as the exception to the rule, not a standard approach. The methodology should be used infrequently. Using the language "equal or higher" is helpful because it allows cities flexibility under rapidly changing economic conditions. But we should not define the economic benefits.

Staff requested input on how employment growth and the land need relationships shape up in an EOA using the target industries approach.

A committee member noted that it's difficult to predict which business will end up on a target industry site. One example is data centers – they develop a small portion of a big site at first, but then develop more buildings that house more employees over the years. It is difficult to forecast when you're looking at an industry's development patterns retrospectively.

A committee member agreed that it isn't clear how to meet the criteria.

Staff replied that the department is trying to ensure that land need asserted through the target industries approach, that that growth should be reflected in the number of workers that a community is planning for.

A committee member noted that some target industries in their community have been growing over time and they share the question of how to meet the criteria.

Staff clarified that using the target industries approach does not preclude a community from adjusting its employment growth forecast from a safe harbor source. Similarly, a city conducting an EOA does not have to use a target industry's approach to make adjustments to its employment growth forecast. The commission directed the dept not to address employment growth forecasting sources in this rulemaking.

A committee member stated that they believe cities should be required to master plan target industries sites, since this is an extraordinary measure to assert land need.

Staff concluded the meeting with information about the forthcoming final draft, and provided information about how the RAC can provide written comments. Staff thanked the committee for its input.



III. FISCAL IMPACT STATEMENT

OVERVIEW OF TARGET INDUSTRY APPROACH

Forecasting the need for future employment capacity is a key component of an EOA, and there are numerous challenges in producing a reliable projection. This is particularly true for the 20-year planning horizon mandated by the State of Oregon's land use system. There are several potential risks and areas where errors in the preparation of an EOA as well as in broader economic development efforts. When forecasting employment by industry over a long-term horizon, several types of mistakes are likely to occur due to the inherent uncertainties and complexities involved. Here are some common errors that can arise:

1. **Extrapolation errors:** Mistakenly assuming that historical trends will continue indefinitely. Industries can experience disruptive changes, technological shifts, or market saturation, which can alter their growth trajectories.
2. **Failure to account for structural changes:** Overlooking potential structural changes in industries, such as automation, offshoring, or changes in business models, can lead to inaccurate employment projections.
3. **Underestimating emerging industries:** New industries or technologies can emerge and grow rapidly, but their potential impact on employment may be underestimated or missed entirely in long-term forecasts.
4. **Industry disruption:** Technological advancements and innovations can disrupt entire industries, rendering some target industries obsolete or forcing them to undergo major transformations. For example, the rise of renewable energy sources and electric vehicles has disrupted the traditional fossil fuel and automotive industries.
5. **Changing market dynamics:** Consumer preferences, regulatory environments, and global competition can shift rapidly, altering the demand for products and services in a target industry. Industries that were once thriving may face decline or stagnation, while new industries emerge to meet changing market needs.
6. **Infrastructure obsolescence:** Technological innovations may require new types of infrastructure or render existing infrastructure obsolete.
7. **Missed opportunities:** By focusing too narrowly on a specific target industry, regions may miss out on opportunities presented by emerging industries or disruptive technologies that were not anticipated during the initial target industry selection process.
8. **Sunk costs and stranded assets:** Investments made in infrastructure, workforce development, and incentives for a specific target industry may become sunk costs or result in stranded assets if that industry declines or becomes less relevant over time.

The target industry approach is part of a holistic approach that economic development professionals use to consider various factors, such as technological trends, regulatory changes, industry interdependencies, and workforce dynamics. The use of advisory committees with expertise in economic development, industry stakeholders, and representatives with local knowledge can help improve the accuracy of long-term forecasts. To mitigate these risks, economic development strategies should incorporate regular monitoring and reassessment of target industries and embrace flexibility and adaptability.



SUMMARY OF GENERAL IMPACTS

As part of the rulemaking process, a Fiscal Impact Statement is required to assess the expected degree to which “state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule” and must estimate the economic impact on those entities. ORS Chapter 183.335(2)(b)(E) also requires that, in determining economic impact, the agency shall “project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.”

The proposed changes to OAR Chapter 660, Division 9 focus on defining and clarifying how a target industry approach can be incorporated into an Economic Opportunities Analysis (EOA). The following are key changes in the rules that are expected to have a substantive impact:

- Requiring that target industries be identified at a 3-digit or higher level of specificity. Economic development agencies such as Business Oregon typically define target industries at a broader level and include multiple 3-digit level industries within a single targeted industry such as Business Services, Food and Beverages, and High Technology. The new rules allow for this type of grouping of more discrete industry clusters in a target industry approach.
- The new rules are effective as of January 1, 2025. For this analysis, we assume that EOAs started before and completed after this date are assumed to be subject to the rules in place at the time the project was initiated.
- The language in 660-009-0015 (2) now includes a requirement that the EOA must “demonstrate how expected employment growth is expected to be accommodated on the identified sites.” This language provides some flexibility regarding how this requirement is met.
- The new rules require that jurisdictions link target industries to required site characteristics (660-09-023 (1)(b)).
- Sites designated for target industries are to be protected but may develop for unanticipated uses if a finding is made that the proposed non-target industry use offers “equal or higher local community benefit.” 660-009-0025 (9)(A)
- Rezoning of target industry sites for residential or commercial use unless a local government adopts a post-acknowledgement plan amendment, including an updated EOA. 660-009-0025 (9)(B)
- Target industry site protections may include measures that prevent or restrict incompatible uses on adjacent or nearby lands.

The new rules clarify the requirements of a target industries approach in the preparation of an EOA, requirements for the documentation and matching of industries with site requirements, and protections to assure that the sites are retained for the target uses. While the rules provide clarification, they can also be viewed as effectively reducing flexibility in employment forecasting and policy responses outside of the safe harbor approach.

The rule changes that require targeted industries to be identified at a 3-digit level could narrow the types of industries to a level that will be difficult to forecast reliably. For industries such as manufacturing, there can be value in narrowing the targeted industries to better match them to site requirements. As an example, many kinds of food processing have significant requirements for water and sewer, which are not seen in industries such as wood product manufacturing. For other industries such as in the construction sector, the site requirements are unlikely to vary substantively between a general and subcontractor, but they occupy different 3-digit NAICS designations. This may



lead to a site designated for a narrowly defined target industry which is then difficult to use for an unanticipated use not in that industry.

The rules provide a level of protection for sites to assure their availability for targeted uses while providing an avenue for using sites for non-target uses if they can be demonstrated to offer “equal or higher local community benefit.” This would require an additional entitlement process, adding a level of uncertainty.

The fiscal impact of the proposed rule changes is expected to range from negligible to modest. The impact statement assumes that the new rules enhance economic development efforts, generally leading to a marginal increase in employment growth. As a target industry approach is not precluded by the current rules, the new rules may also be viewed as more limiting and potentially negatively impacting realized growth. As the use of a target industries approach is optional, jurisdictions would only be expected to utilize the approach when the benefits are perceived to outweigh the costs. The clarification in the rules may protect cities from remand, appeal, and/or litigation, providing a positive fiscal impact.

The following is a summary of anticipated fiscal impacts organized by the impacted entity.

SMALL AND LARGE BUSINESSES

The proposed rules are not expected to have any impact on businesses related to compliance, with the proposed rules not applying to the operation of any businesses.

Expanding and/or relocating businesses are expected to benefit from a readily available supply of developable land, in appropriate locations, sizes, and with available infrastructure. The target industry approach is supportive of providing this supply and better matching it to the needs of industry. Increased land inventory would also be expected to reduce the cost of land acquisition.

Many businesses that would not directly benefit from an adequate land supply would be expected to benefit indirectly from the ability of other businesses to better meet their needs. The success of a business can benefit other businesses and the broader community in several ways:

- *Job creation: A thriving business often needs to expand its workforce, creating employment opportunities for people in the community. This increases the overall income levels and purchasing power within the local area.*
- *Supply chain opportunities: Successful businesses often need to source materials, products, and services from other local companies, creating business opportunities for suppliers, vendors, and contractors in the community.*
- *Increased tax revenue: Profitable businesses contribute more in taxes, which can be used by local governments to improve infrastructure, public services, and amenities that benefit the entire community.*
- *Economic multiplier effect: When employees and owners of a successful business spend their income locally, it creates additional demand for goods and services from other businesses, stimulating economic activity throughout the community.*
- *Attraction of complementary businesses: The presence of a successful business can make the community more attractive for other businesses in related or complementary industries, creating a cluster effect that benefits the local economy.*



To the extent that the proposed modifications to the rules better match available employment capacity with future needs and are successful in accommodating an expansion in the employment base, local businesses would be expected to benefit in aggregate. A potential exception to this would be if the rule changes supported the accommodation of an employer that may directly compete with an existing business serving the local community. This would most likely occur for businesses that serve the local population base such as medical care.

Small Businesses

A small business is defined in ORS 183.310(10) as a private enterprise with less than 50 employees. The impact on firms of this size is difficult to isolate from the general impact on businesses, with both small and large firms found in most industries. Smaller firms are more likely to have capital constraints and are often more likely to lease as opposed to owning space to house their operations. This typically allows them greater flexibility in responding to changing market conditions, but they are also more reliant upon larger developers and owners of speculative space to meet their space needs.

Large Businesses

Large businesses are more likely to be part of industries identified in a target industry approach, although there are also a number of smaller businesses that could be part of a targeted industry. The site and space requirements of large businesses can often be highly specific, and a target industry approach can allow for better matching of available sites and capacity to requirements.

LOCAL GOVERNMENTS

For local governments, the proposed new rules are expected to be related to the following:

- Preparation of an Economic Opportunities Analysis
 - Cost
 - Outcomes
 - Policy
- Marginal impact on economic growth
 - Assumed to be positive in this analysis

Many jurisdictions have used a target industry approach under the existing rules. The new rules clarify and codify what will be necessary in a target industry approach, including additional requirements regarding matching sites to targeted industries, site protections, and guidance on policies. For jurisdictions that use a target industry approach in their EOA, the marginal costs of preparation are not expected to be substantively impacted.

Using the target industry approach for an EOA is allowed but not mandated; therefore, local jurisdictions can easily avoid any anticipated consequences by employing a safe harbor approach, which entails less work in preparation and has fewer requirements for compliance. These benefits expand under the proposed rules, particularly in the designation of lands for industrial and employment uses. Therefore, as jurisdictions may divert from operating the target industry approach, which would have provided tangible benefits, the proposed changes may have an indirect fiscal impact.



The safe harbor approach entails less work in preparation and has fewer requirements for compliance. This advantage is expanded in the new rules, particularly in the designation of lands for industrial and employment uses.¹ However, the safe harbor approach is recognized to ignore many influential factors that may impact growth potential (regional context, changing market dynamics, etc.); therefore, many jurisdictions still prefer the target industry approach, a more comprehensive and accurate strategy in forecasting anticipated employment requirements.

Jurisdictions utilizing a target industry approach are more likely to have findings supporting a need for greater employment capacity needs. The new rules will ensure that sites are identified consistent with targeted industry needs, and that these sites receive an increased level of protection. The net impact of this is expected to be a greater potential to accommodate future employment growth, linked to a higher expectation to realize this growth. The expansion of the local employment base through the growth of businesses can have a significant positive fiscal impact on local governments in several ways:

- Increased tax revenue, with local governments primarily impacted by property taxes and fees.
- Infrastructure and economic development: The increased tax revenue can be reinvested in improving local infrastructure, such as roads, utilities, and public transportation, which can attract further business investment and economic growth. Local governments may also allocate more funds for economic development initiatives, incentives, and programs to support the growth of existing businesses and attract new ones.
- Enhanced quality of life: Additional tax revenue can be used to improve public services, such as education, public safety, parks, and recreational facilities, enhancing the overall quality of life for residents and making the community more attractive to potential businesses and employees. New local employment may also expand the level of services in the community for residents and businesses.
- Multiplier effect: As employed individuals spend their income locally, it generates additional economic activity supporting local businesses.

It is important to note that the fiscal impact may also depend on the type of jobs created (e.g., high-paying vs. low-paying), the need for additional infrastructure to serve sites, the funding strategy for infrastructure extension, the cost of providing additional public services to support growth, and the local government's ability to effectively manage and allocate the increased revenue.

STATE AGENCY COSTS

The proposed rules are expected to have a significant fiscal impact on only DLCD among state agencies, although other agencies involved in infrastructure finance may be impacted. The Oregon Business Development Department (Business Oregon) is cited as a resource for guidance on site requirements. A target industry approach would benefit from active support from Business Oregon in identifying industry and site requirements. Business Oregon would likely incur costs to update and maintain site guidance standards if they provided this support.²

¹ 660-00-0025 (1)(a)

² 660-009-0025 (1)(b)



DLCD staff are responsible for the review of EOAs and Comprehensive Plans, and the proposed new rules could impact the content and scope of these documents. The agency often provides grants to fund the preparation of EOAs and periodic review processes, and to the extent the new rules increase costs the level of grant funding may be impacted.

- Increased workload and/or delays if the volume of planning documents to review is increased.
- Need for additional technical assistance, particularly if local governments want to utilize a target industry approach under the rules without an outside consultant familiar with the rules.
- The evaluation of land supply characteristics and infrastructure needs is more detailed under a target industry approach, which may increase the cost of preparing buildable lands inventories.
- Depending on the nature of the target industries, DLCD may need to coordinate with other state agencies, such as DEQ, ODOT, or Business Oregon, to ensure compliance with relevant regulations and to align economic development strategies.

We would not anticipate any significant increase in costs associated with staff review of EOA and Comprehensive Plan submittals, nor do we expect the preparation cost of EOAs to be impacted significantly by the new rules. The expanded protections may require additional staff time to ensure that local jurisdictions understand and meet the new requirements.

There is the potential for DLCD to incur Department of Justice legal fees in situations where DLCD files, or is a party to, an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains the authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the typical level. Clarifying the target industry approach may positively impact DLCD legal fees by reducing ambiguity with respect to accepted methodologies in the preparation of an EOA.

PUBLIC

The public is not anticipated to experience a significant fiscal impact from the new rules. Any related costs incurred by local jurisdictions and state agencies may reduce resources available for other uses, but this impact is expected to be negligible.

To the extent that the new rules result in a higher level of local employment growth, members of the public may benefit from a combination of expanded employment opportunities, increased availability of local services, and improved local government services and community amenities.

Goal 9 Target Industries Approach Rulemaking Advisory Committee
Draft Tentative Rule Language for Committee Consideration

July 1, 2024

[Chapter 660](#)

Division 9
ECONOMIC DEVELOPMENT

[660-009-0000](#)

Intent and Purpose

The intent of the Land Conservation and Development Commission is to provide an adequate land supply for economic development and employment growth in Oregon. The intent of this division is to link planning for an adequate land supply to infrastructure planning, community involvement and coordination among local governments and the state. The purpose of this division is to implement Goal 9, Economy of the State (OAR 660-015-0000(9)), and ORS 197.712(2)(a) to (d). This division responds to legislative direction to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state (ORS 197.712(1)) and to assure that comprehensive plans are based on information about state and national economic trends (ORS 197.717(2)).

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

LCDC 4-1986, f. & ef. 10-10-86

[660-009-0005](#)

Definitions

For purposes of this division, the definitions in ORS chapter 197 and the statewide planning goals apply, unless the context requires otherwise. In addition, the following definitions apply:

(1) “Developed Land” means non-vacant land that is likely to be redeveloped during the planning period.

(2) “Development Constraints” means factors that temporarily or permanently limit or prevent the use of land for economic development. Development constraints include, but are not limited to, wetlands, environmentally sensitive areas such as habitat,

environmental contamination, slope, topography, cultural and archeological resources, infrastructure deficiencies, parcel fragmentation, or natural hazard areas.

(3) "Industrial Use" means employment activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to: manufacturing; assembly; fabrication; processing; storage; logistics; warehousing; importation; distribution and transshipment; and research and development. Industrial uses may have unique land, infrastructure, energy, and transportation requirements. Industrial uses may have external impacts on surrounding uses and may cluster in traditional or new industrial areas where they are segregated from other non-industrial activities.

(4) "Locational Factors" means market factors that affect where a particular type of industrial or other employment use will locate. Locational factors include, but are not limited to, proximity to raw materials, supplies, labor, services, markets, or educational institutions; access to transportation and freight facilities such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes; and workforce factors (e.g., skill level, education, age distribution).

(5) "Metropolitan Planning Organization (MPO)" means an organization designated by the Governor to coordinate transportation planning on urban land of the state including such designations made subsequent to the adoption of this division. The Longview-Kelso-Rainier MPO is not considered an MPO for the purposes of this division. Cities with less than 2,500 population are not considered part of an MPO for purposes of this division.

(6) "Other Employment Use" means all non-industrial employment activities including the widest range of retail, wholesale, service, non-profit, business headquarters, administrative and governmental employment activities that are accommodated in retail, office and flexible building types. Other employment uses also include employment activities of an entity or organization that serves the medical, educational, social service, recreation and security needs of the community typically in large buildings or multi-building campuses.

(7) "Planning Area" means the area within an existing or proposed urban growth boundary. Cities and counties with urban growth management agreements must address the urban land governed by their respective plans as specified in the urban growth management agreement for the affected area.

(8) "Prime Industrial Land" means land suited for traded-sector industries as well as other industrial uses providing support to traded-sector industries. Prime industrial lands possess site characteristics that are difficult or impossible to replicate in the planning area or region. Prime industrial lands have necessary access to transportation and freight infrastructure, including, but not limited to, rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes. Traded-sector has the meaning provided in ORS 285B.280.

(9) "Serviceable" means the city or county has determined that public facilities and transportation facilities, as defined by OAR 660, divisions 011 and 012, currently have adequate capacity for development planned in the service area where the site is located or can be upgraded to have adequate capacity within the 20-year planning period.

(10) "Short-term Supply of Land" means suitable land that is ready for construction within one year of an application for a building permit or request for service extension. Engineering feasibility is sufficient to qualify land for the short-term supply of land. Funding availability is not required. "Competitive Short-term Supply" means the short-term supply of land provides a range of site sizes and locations to accommodate the market needs of a variety of industrial and other employment uses.

(11) "Site Characteristics" means the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include, but are not limited to, a minimum acreage or site configuration including shape and topography, visibility, specific types or levels of public facilities, services or energy infrastructure, or proximity to a particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.

(12) "Suitable" means serviceable land designated for industrial or other employment use that provides, or can be expected to provide the appropriate site characteristics for the proposed use.

(13) "Target Industry" means an economic subsector defined by the 2022 U.S. Census Bureau Economic Census through the North American Industry Classification System (NAICS) using a 3-digit code or more specific industry classification. Local governments may rely on former or current industry classifications if the NAICS is updated after submittal of a notice of proposed change to a comprehensive plan or land use regulation pursuant to ORS 197.610 and OAR 660-018-0020.

~~(13)~~ **(14)** "Total Land Supply" means the supply of land estimated to be adequate to accommodate industrial and other employment uses for a 20-year planning period. Total land supply includes the short-term supply of land as well as the remaining supply of lands considered suitable and serviceable for the industrial or other employment uses identified in a comprehensive plan. Total land supply includes both vacant and developed land.

~~(14)~~ **(15)** "Vacant Land" means a lot or parcel:

(a) Equal to or larger than one half-acre not currently containing permanent buildings or improvements; or

(b) Equal to or larger than five acres where less than one half-acre is occupied by permanent buildings or improvements.

Statutory/Other Authority: ORS 183 & 197
Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07
LCDC 4-1986, f. & ef. 10-10-86

660-009-0010

Application

(1) This division applies to comprehensive plans for areas within urban growth boundaries. This division does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Cities and counties subject to this division must adopt plan and ordinance amendments necessary to comply with this division.

(2) Comprehensive plans and land use regulations must be reviewed and amended as necessary to comply with this division as amended at the time of each periodic review of the plan pursuant to ORS 197.712(3). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-025-0050) prior to the effective date of amendments to this division must comply with such amendments at their next periodic review unless otherwise directed by the Commission.

(3) Cities and counties may rely on their existing plans to meet the requirements of this division if they conclude:

(a) There are not significant changes in economic development opportunities (e.g., a need for sites not presently provided for in the plan) based on a review of new information about national, state, regional, county and local trends; and

(b) That existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 to 660-009-0030.

(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

(5) The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.

(6) The amendments to this division are effective January 1, ~~2007~~ **2025**. A city or county may voluntarily follow adopted amendments to this division prior to the effective date of the adopted amendments.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

LCDD 4-2001, f. & cert. ef. 10-2-01

LCDC 4-1986, f. & ef. 10-10-86

660-009-0015

Economic Opportunities Analysis

Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

(1) Review of National, State, Regional, County and Local Trends. The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth **and target industries** reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule.

(2) Identification of Required Site Types. The economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. **The economic opportunities analysis must demonstrate how expected employment growth is expected to be accommodated on the identified sites.** Cities and counties are encouraged to examine existing firms in the planning area to

identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.

(a) For sites inventoried under this section, plans must provide the following information:

(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and

(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.

(b) When comparing current land supply to the projected demand, cities and counties may inventory contiguous lots or parcels together that are within a discrete plan or zoning district.

(c) Cities and counties that adopt objectives or policies providing for prime industrial land pursuant to OAR 660-009-0020(6) and 660-009-0025(8) must identify and inventory any vacant or developed prime industrial land according to section (3)(a) of this rule.

(4) Assessment of Community Economic Development Potential. The economic opportunities analysis must estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

(a) Location, size and buying power of markets;

(b) Availability of transportation facilities for access and freight mobility;

(c) Public facilities and public services;

(d) Labor market factors;

(e) Access to suppliers and utilities;

(f) Necessary support services;

(g) Limits on development due to federal and state environmental protection laws; and

(h) Educational and technical training programs.

(5) Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies. Cities and counties are strongly encouraged to use the assessment of community economic development potential to form the community economic development objectives pursuant to OAR 660-009-0020(1)(a).

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

LCDC 4-1986, f. & ef. 10-10-86

660-009-0020

Industrial and Other Employment Development Policies

(1) Comprehensive plans subject to this division must include policies stating the economic development objectives for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must provide the following:

(a) Community Economic Development Objectives. The plan must state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses desired by the community. Policy objectives may identify the level of short-term supply of land the planning area needs. Cities and counties are strongly encouraged to select a competitive short-term supply of land as a policy objective.

(b) Commitment to Provide a Competitive Short-Term Supply. Cities and counties within a Metropolitan Planning Organization must adopt a policy stating that a competitive short-term supply of land as a community economic development objective for the industrial and other employment uses selected through the economic opportunities analysis pursuant to OAR 660-009-0015.

(c) Commitment to Provide Adequate Sites and Facilities. The plan must include policies committing the city or county to designate an adequate number of sites of suitable sizes, types and locations. The plan must also include policies, through public facilities planning and transportation system planning, to provide necessary public facilities and transportation facilities for the planning area.

(2) Plans for cities and counties within a Metropolitan Planning Organization or that adopt policies relating to the short-term supply of land, must include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed. These policies must describe dates, events or both, that trigger local review of the short-term supply of land.

(3) Plans may include policies to maintain existing categories or levels of industrial and other employment uses including maintaining downtowns or central business districts.

(4) Plan policies may emphasize the expansion of and increased productivity from existing industries and firms as a means to facilitate local economic development.

(5) Cities and counties are strongly encouraged to adopt plan policies that include brownfield redevelopment strategies for retaining land in industrial use and for qualifying them as part of the local short-term supply of land.

(6) Cities and counties are strongly encouraged to adopt plan policies pertaining to prime industrial land pursuant to OAR 660-009-0025(8).

(7) Cities and counties are strongly encouraged to adopt plan policies that include additional approaches to implement this division including, but not limited to:

(a) Tax incentives and disincentives;

(b) Land use controls and ordinances;

(c) Preferential tax assessments;

(d) Capital improvement programming;

(e) Property acquisition techniques;

(f) Public/private partnerships; and

(g) Intergovernmental agreements.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

LCDC 4-1986, f. & ef. 10-10-86

660-009-0025

Designation of Lands for Industrial and Other Employment Uses

Cities and counties must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, public facility plans, and transportation system plans.

(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to implement plan policies. ~~Plans do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas.~~ Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.

(a) Plans relying on safe harbor employment growth forecasts do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas.

(b) Plans may include sites for one or more target industries. Associated target industries with similar site needs may be combined for site identification. Target industry site needs must be typical of industry site characteristics. Plans including target industry site needs should demonstrate consistency with Oregon Business Development Department (OBDD) guidance or other industry standards regarding typical site characteristics. Examples of sources include but are not limited to industry reports, citation of existing developments, or OBDD publications. Sites identified through the target industries approach may not be planned for retail development.

(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated must at least equal the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.

(3) Short-Term Supply of Land. Plans for cities and counties within a Metropolitan Planning Organization or cities and counties that adopt policies relating to the short-term supply of land must designate suitable land to respond to economic development opportunities as they arise. Cities and counties may maintain the short-term supply of land according to the strategies adopted pursuant to OAR 660-009-0020(2).

(a) Except as provided for in subsections (b) and (c), cities and counties subject to this section must provide at least 25 percent of the total land supply within the urban growth boundary designated for industrial and other employment uses as short-term supply.

(b) Affected cities and counties that are unable to achieve the target in subsection (a) above may set an alternative target based on their economic opportunities analysis.

(c) A planning area with 10 percent or more of the total land supply enrolled in Oregon's industrial site certification program pursuant to ORS 284.565 satisfies the requirements of this section.

(4) If cities and counties are required to prepare a public facility plan or transportation system plan by OAR chapter 660, division 011 or division 012, the city or county must complete subsections (a) to (c) of this section at the time of periodic review. Requirements of this rule apply only to city and county decisions made at the time of periodic review. Subsequent implementation of or amendments to the comprehensive plan or the public facility plan that change the supply of serviceable land are not subject to the requirements of this section. Cities and counties must:

(a) Identify serviceable industrial and other employment sites. The affected city or county in consultation with the local service provider, if applicable, must make decisions about whether a site is serviceable. Cities and counties are encouraged to develop specific criteria for deciding whether or not a site is serviceable. Cities and counties are strongly encouraged to also consider whether or not extension of facilities is reasonably likely to occur considering the size and type of uses likely to occur and the cost or distance of facility extension;

(b) Estimate the amount of serviceable industrial and other employment land likely to be needed during the planning period for the public facilities plan. Appropriate techniques for estimating land needs include but are not limited to the following:

(A) Projections or forecasts based on development trends in the area over previous years; and

(B) Deriving a proportionate share of the anticipated 20-year need specified in the comprehensive plan.

(c) Review and, if necessary, amend the comprehensive plan and the public facilities plan to maintain a short-term supply of land. Amendments to implement this requirement include but are not limited to the following:

(A) Changes to the public facilities plan to add or reschedule projects to make more land serviceable;

(B) Amendments to the comprehensive plan that redesignate additional serviceable land for industrial or other employment use; and

(C) Reconsideration of the planning area's economic development objectives and amendment of plan objectives and policies based on public facility limitations.

(d) If a city or county is unable to meet the requirements of this section, it must identify the specific steps needed to provide expanded public facilities at the earliest possible time.

(5) Institutional Uses. Cities and counties are not required to designate institutional uses on privately owned land when implementing section (2) of this rule. Cities and counties may designate land in an industrial or other employment land category to compensate for any institutional land demand that is not designated under this section.

(6) Compatibility. Cities and counties are strongly encouraged to manage encroachment and intrusion of uses incompatible with industrial and other employment uses. Strategies for managing encroachment and intrusion of incompatible uses include, but are not limited to, transition areas around uses having negative impacts on surrounding areas, design criteria, district designation, and limiting non-essential uses within districts.

(7) Availability. Cities and counties may consider land availability when designating the short-term supply of land. Available land is vacant or developed land likely to be on the market for sale or lease at prices consistent with the local real estate market. Methods for determining lack of availability include, but are not limited to:

(a) Bona fide offers for purchase or purchase options in excess of real market value have been rejected in the last 24 months;

(b) A site is listed for sale at more than 150 percent of real market values;

(c) An owner has not made timely response to inquiries from local or state economic development officials; or

(d) Sites in an industrial or other employment land category lack diversity of ownership within a planning area when a single owner or entity controls more than 51 percent of those sites.

(8) Uses with Special Siting Characteristics. Cities and counties that adopt objectives or policies providing for uses with special site needs must adopt policies and land use regulations providing for those special site needs. Special site needs include, but are not limited to large acreage sites, special site configurations, direct access to transportation facilities, prime industrial lands, sensitivity to adjacent land uses, or coastal shoreland sites designated as suited for water-dependent use under Goal 17. Policies and land use regulations for these uses must:

(a) Identify sites suitable for the proposed use;

(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use; and

(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.

(9) Target Industries. Local governments that estimate land demand using site requirements of target industries in an economic opportunities analysis must adopt land use regulations that:

(a) Designate and preserve specific sites for use by target industries by zoning ordinance or local measure.

(A) Sites designated for target industries may be developed for unanticipated employment uses based upon adopted findings in a legislative or quasi-judicial land use decision that the proposed non-target industry use offers equal or higher local economic and community benefit;

(B) Unless a local government adopts a post-acknowledgment plan amendment consisting of an updated economic opportunities analysis to rezone target industry sites;

(i) Sites designated for target industries that do not develop with the anticipated industrial use may not be rezoned for commercial or residential use.

(ii) Target industry sites zoned for other employment uses may not be rezoned for residential use.

(C) Local land use regulations establishing sites for target industries may include provisions for non-industrial development that is subordinate to and supportive of the primary industrial development.

(b) Protect designated target industry sites by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use;

(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

LCDC 4-1986, f. & ef. 10-10-86

660-009-0030

Multi-Jurisdiction Coordination

(1) Cities and counties are strongly encouraged to coordinate when implementing OAR 660-009-0015 to 660-009-0025.

(2) Jurisdictions that coordinate under this rule may:

(a) Conduct a single coordinated economic opportunities analysis; and

(b) Designate lands among the coordinating jurisdictions in a mutually agreed proportion.

Statutory/Other Authority: ORS 183 & 197 & OL 2003 Ch. 800

Statutes/Other Implemented: ORS 197.712

History:

LCDD 7-2005, f. 12-13-05, cert. ef. 1-1-07

DRAFT

From: fred.banks1@gmail.com
To: [MCILVAINE Leigh * DLCD](#)
Subject: RE: Goal 9 Zoom Link
Date: Thursday, May 2, 2024 4:48:48 PM

Hello LM,

I just wanted to say that utilizing a collaborative method of development may be the way to go. I think that if smaller cities want to attract industry's of both blue and or white collar employees than those city's need to look at the retail and or health, human /social services, and wellness industries to help develop along with the targeted industry that the city will focus their EOA on. they must look at the people that will be there to make the projected industry develop and thrive. I personally feel that if accessibility and inclusion are not included in both work and community building for people with physical disabilities ,Then that would be devaluing potential revenue and industry development. I also think that business Oregon should not only give an update to the listing. However, there should be a definition and a practical use for that industry. I understand that the majority of the people that will look at the listing already have a knowledge of the language that may be in this taxonomy of business language. However, I think that business Oregon should really update and make there list user friendly. In addition, environmental impact on the land and green industry's such as ; hydroponic food growing, creating electric cars and the charging stations to charge there cars, wend farms using windmills made from recycled materials, recycling more than just the bottles for bottle drop, and solar panels for energy use for residential as well as business property. The alternative environmental industries should also be considered with in the development of the city. Embracing renewable resources as a potential EOA, will illustrate the cities social conscious. These green industry's will help to leave a smaller carbon foot print on the land. It will be less of a environmental bourdon on the land and will allow the developing city to have a new thriving industry. That could be an employable industry and a potential method of growth. Pleas let me know if this will work and answered any of the questions. I would like these comments to be included for the next meeting. .

From: MCILVAINE Leigh * DLCD <Leigh.MCILVAINE@dlcd.oregon.gov>
Sent: Wednesday, May 1, 2024 4:10 PM
To: fred.banks1@gmail.com
Subject: Goal 9 Zoom Link

<https://us02web.zoom.us/j/86795734842?pwd=Sk9XbkqxZ20zMDBQNVpwT3hLaEFLZz09>



Leigh McIlvaine (she/her)

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Recommendations on DLCD Goal 9 Target Industries Rules Advisory Committee

Nellie McAdams
Farmland First
Agriculture Representative

Monday, June 10, 2024

Dear Members of the DLCD Goal 9 Target Industries RAC:

The following are Farmland First's comments in response to DLCD's request to make specific recommendations to Goal 9 Administrative Rules 660-09-010660-009-0020 as they pertain to the Target Industries approach to Economic Opportunity Analysis development. This method is extremely concerning, given its propensity to result in requests for large amounts of land. These expansions almost always come at the cost of other industries, agriculture or forestry, which are given limited consideration in the EOA and subsequent UGB expansion analysis, and which by definition would never be target industries in themselves.

Below are some general statements, followed by recommended rule changes. Previously, DLCD staff posed the question of whether a separate section or "carve-out" should be created in the administrative rule. That is likely advisable because of the problems we have encountered.

General Recommendations to Goal 9: Target Industries Approach

OAR 660-009-0010 to 660-009-020

No approach should result in excessive land requests

In general, we do not believe that any theory that (in application) results in the removal of large amounts of agricultural land for highly speculative purposes should be permitted by rule or statute. It is an outdated notion that the primary limiting factor for economic development is the availability of land. As shown by Oregon's 14 CHIPS Act applications, which did not request new land inside or outside of a UGB, billions of dollars can be invested in an existing footprint to yield economic benefits and jobs for a region. And industries of the future (which an EOA should plan for) are likely to be even less land extensive. Cities and industries also have the choice of how much land an industry will require - Cities can choose data centers that take up 100 acres, or stack this function on multiple floors in existing space inside a UGB, like the data center in Portland. The EOA process should fundamentally plan for economic development, not just hypothetical market preferences of industries now and in the future for land. This includes economic incentives, education and training, and providing for the quality of life of the workforce in that community.

Regional planning is necessary, regardless of target industries approach

Planning must occur on a regional scale. Oregon has 10,000 acres of industrial land that is available for these uses. The use of this land should first be maximized before new land is brought into UGBs. Regional planning would also prevent multiple neighboring cities from

claiming large amounts of land under the target industries approach for an industry that may only land in one of those cities, if any, and if it does not arrive, leaves

Regional planning would also help prevent rural cities outside of Metro or other areas where regional growth is directed from justifying their growth projections based upon Metro's/urban areas' growth projections. This siphons infrastructure funding from where it is most needed, and harms existing natural resource based industries.

Medford, Phoenix and Talent offer an excellent example of a regional planning solution that considers regional economic, housing, and natural resource needs.

Specific Recommendations to Goal 9: Target Industries Approach

OAR 660-009-0010 to 660-009-020

Within the indented suggested rule amendments, **bold** indicates proposed new language and ~~strike through font~~ proposes deletions.

1) Development constraints should include benefits, costs, and opportunity costs to residents and surrounding natural resource industries

First, an analysis of site constraints must consider impacts on marginalized community members. Land extensive industries have a disproportionate effect on low-income residents and other marginalized communities. It increases transit time to jobs, increases taxes and the cost of providing infrastructure (which disproportionately affect lower-income residents), and often places these residents in close proximity to pollution and other impacts of the industry. Any such approach should name, actively weigh in the selection of an industry, minimize, and mitigate impacts of the industry on marginalized communities.

Second, analysis of site constraints must consider an evaluation of Goals 3, 4, and 5. The development of an EOA is a necessary step towards requesting land in a UGB amendment. The UGB Administrative Rules 660-024-020 Adoption for Amendment of a UGB states:

(b) Goals 3 and 4 are not applicable.

(c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250.

However, it does not seem that the rules prevent a city from, as a matter of policy, considering Goals 3 and 4 when amending a UGB or conducting a EOAs or HNAs. Because Target Industries approach tends to request more agricultural land than other approaches, it should be held to a higher standard and mitigating impacts on Goals, 3, 4, and 5 resources is appropriate. We urge requiring a Goal 3, 4, and 5 analysis if Target Industries approach is to be used.

660-09-0010, Definitions:

(2) “ Development Constraints”; Means factors that temporarily or permanently limit or prevent the use of land for economic development. Development constraints include but are not limited to, wetlands, environmentally sensitive areas such as habitat, environmental contamination, slope, topography, cultural and archaeological resources, infrastructure deficiencies, parcel fragmentation, or natural hazard areas.

Development constraints also include:

1. **Impacts on communities, especially marginalized communities, and include but are not limited to” geographic fragmentation, traffic impacts, air and water pollution, housing displacement and.**
2. **Impacts that compromise viability of natural resource-based industries and activities such as agriculture, forestry, fisheries and recreation.**

2) “Target Industry” should be defined using more specificity

More than 2-digits are required for any type of industry specificity in the NAICS codes. The NAICS hierarchy includes 20 two-digit Economic Sectors, 96 three-digit Subsectors and 308 four-digit Industry Groups. Of the 20 Economic Sectors, 7 include resource based industries, public administration, construction and retail, which are from my understanding, not subject to EOAs. That leaves 13 sectors, which, if that is the only specificity needed, might as well be check boxes on an application. There is no way that a city can prepare the needed infrastructure or understand the desirability of an industry at a high of a level.

There are 96 [three-digit Subsectors](#) of which 32 are non-urban or highly unlikely in Oregon. This is the minimum specificity that should be required in terms of NAICS numbers, but this level of categorization alone is insufficient to be instructive on the desirability of an industry to city residents, the desirability of the city to the industry, and the availability of needed support infrastructure. We offer language below in the definition of Target Industries to address this.

660-09-0010, Definitions:

(13). “Target Industry” means an economic **industry** defined by **the most recent** United States Census Bureau's economic census through the North American industry classification system using a ~~three~~**four**-digit code or more specific industry classification **that demonstrably meets a city’s employment growth projections, which the city is uniquely positioned to attract, and for which a specific city and other service providers have the capacity to provide services consistent with its adopted comprehensive plan, public facilities and transportation plans, subject to the provisions of this administrative rule.**

3) **The definition of vacant land should be expanded and include a definition of underdeveloped land.**

Over 10,000 acres of industrially zoned land is undeveloped in the state, and more land is underdeveloped or vacant for its original purpose. This includes large amounts of commercial real estate. Industries will change, and their former facilities should not remain forever as

discarded husks on the landscape. An EOA should include a strategy to maximize the utility of existing industrial land that is already connected to infrastructure. It should also attempt to upzone or encourage industry on underutilized parcels like single level parking lots.

(15) "Vacant Land or **Underdeveloped Land**". Means a lot or parcel:

(a) Equal to or larger than 1/2 acre not currently containing permanent buildings or improvements; ~~or~~

(b) Equal to or larger than five acres or less than one half acre is occupied by permanent buildings or improvements; **or**

c) Land that is not in use for its designated purpose and is either vacant or occupied by unusable or commercial/industrial structures or non-conforming uses.

(16) Underdeveloped lands suitable for more intense industrial development that have relatively low improvement to assessed value ratios which are economically feasible to redevelop. Examples include unused or underutilized parking lots, outdated freight terminals, outdoor materials storage, etc.

4) Some flexibility is needed, but it must not break up large parcels, allow substitutions for low-grade industries, or allow unneeded land to linger in a UGB

In the prior meeting, I mentioned that I saw the validity of a goal of retaining X% of land for the EOA purpose instead of specific parcels. I take back that comment, since the contiguity of parcel and the site-specific characteristics are what make property useful to a target industry.

One of the great risks of a Target Industries approach is that it is used to justify a typically land-extensive "white whale" industry which never arrives and then the land is forever in the UGB. Such practices should be rigorously deterred, because even if there is a claw back provision, the character, cost, and ownership of the property brought into a UGB is likely to change after the designation is made and is extremely difficult or impossible to reverse.

Lastly, there should be a specific time frame within which target industries and associated UGB expansions will apply. Lands brought into UGBs for industrial purposes should be actually and effectively used.

Add to 660-009-0025

Lands shall be specifically designated as for identified target industries. No substitute commercial, industrial or housing uses are permitted. When proposed target industries do not locate on specific properties within five years, the local jurisdiction shall remove the enabling comprehensive plan and zoning designation and commensurately reduce the Urban Growth Boundary area and reapply the original plan map and zoning designation.

5) A target-industries approach should be based on verifiable findings that:

- a) Specifically name target industries.
- b) Make specific findings against comprehensive plan goals and policies to justify target industry designations and associated UGB expansions, including proof that there are inadequate industrial lands inside existing UGBs.
- c) Use Statewide Citizen Involvement Goal 1: Citizen Involvement Guidelines to engage the public in the Economic Opportunities Analysis (EOA) and UGB processes.
- d) Provide that site size may be only one of several criteria that applies to making target industry siting decisions.
- e) Ensure that adequate public facilities and services are or can be available for target industries and that service needs are coordinated with all appropriate providers.
- f) Ensure that future target industries will mitigate impacts on working on natural and working lands.
- g) Assess whether the proposed jurisdiction is the best one within a region to best locate specific target industries in view of issues associated with infrastructure, workforce, transportation, natural resource and land use conflicts.
- h) Document that targeted industries will have average employment densities and overall wages equal to greater than the county average in which they are located.
- i) Ensure that the overall economic benefits will occur to the host city as determined by a fiscal impact analysis

660-009-0020

- a. **A target industries approach approach may be used only when:**
 - 1. **A city has proven, based on verifiable findings, to be uniquely suited for a specific, well-defined industry, due factors such as its workforce, geographic location, relationship to natural resources, transportation characteristics, location inside or outside of Metro or another regional body, etc. A target industry shall be named with sufficient detail within the context of the 4-digit NAIC classification and relationship to these factors. Site size shall not be the only consideration for target industries, in view of the changing nature of employment and modern economy, and priority shall be given to accommodation with existing city UGBs.**
 - b) **A city shall make affirmative findings associated with acknowledged comprehensive plan goals and policies. The policy foundation for target industries may be satisfied through either periodic review or a post acknowledgement and pre-UGB expansion amendment comprehensives plan amendment process.**

- a. **Proactive citizen involvement occurs in development or amendment of associated comprehensive plans, UGB expansion, and EOA decisions consistent with the guidelines of Statewide Planning Goal 1, Citizen Involvement.**

We propose adding the following Section following 660-09-0020 as follows:

660-009-0021

- a. **UGB expansions to accommodate designated target industries may occur only after documented determination that:**
 - 1. **There are inadequate lands within the existing city limits and UGB.**
 - 2. **The city has a plan to address the impacts to existing public facilities and services including transportation; The city has the capacity to provide needed service; And funding measures are or will be in place to ensure these can be provided associated with development.**
 - 3. **The city has coordinated is coordinating with other service providers that may be impacted to ensure they can provide services and/or their ability to do so are not impacted. These include ODOT, special districts, counties, adjoining cities, water districts, etc.**
 - 4. **The city will mitigate impacts and increase benefits for marginalized communities, including the type of industry and the extent and location of siting of the industry.**
 - 5. **The city will mitigate impacts on agriculture, forestry and natural resources per Statewide Planning Goals, 3, 4, and 5. Mitigation may occur through measures such as considering location on lands inside existing city UGB boundaries, appropriately sized and configured UGB expansion, building and site design measures, and whether target industries can be located elsewhere in the region.**
 - 6. **Other jurisdictions within a region cannot better site target industries in view of public facilities and service capacity, land availability, workforce characteristics, fewer impacts on natural and working lands and natural resources – air, water and land resource quality, location inside Metro or another regional body, etc.**
 - 7. **Target industries will have average employment densities and overall wages equal to or greater than the county average.**
 - 8. **Jobs projections support this industry in this city in this timeframe.**
 - 9. **Overall long-term economic benefits will occur to the “host” city as a result of siting the target industries, as determined through a community fiscal impact analysis that considers factors including: long-term property tax revenues; tax incentives or payments associated with industry type; application of urban renewal tax increment financing; permits, fees, charges, dedications, payments in lieu of, etc.; infrastructure costs short- and long-term municipal maintenance costs; state income tax receipts and state revenue sharing, etc.**

**1000 Friends of Oregon Recommendations on Draft Rule, Goal 9 Targeted Industries Approach
Prepared by Gil Kelley, FAICP, 1000 Friends Board Policy Committee Chair - 6-10-24**

Thank you for allowing our participation in committee deliberations and to offer written comments in advance of our final committee meeting.

The recent North Plains decision to use the Targeted Industries approach in a way that was previously unheralded in terms of scope has called into question how this alternative approach to the traditional designation and potential expansion of city lands for industry should be applied without sacrificing nor running afoul of other State Land Use Goals and processes. Although this is not the place to “litigate” the North Plains case, 1000 Friends of Oregon would like to offer its thoughts and recommendations on how this provision of State law might be better directed in future cases through the present rule-making process.

In general, we view the Targeted Industries approach to designating land for economic development purposes as an alternative to the traditional employment land designation approach, one that should be used only in special circumstances and be subject to strict rules regarding use and potential change of use in these lands, such that the intent and purpose of the designation is preserved.

Our recommendations fall into three areas:

1. Establishing greater clarity on the purpose and application of the TI approach.
2. Establishing standards and guidelines for proposed application of this approach by cities and review by parties in decision-making and appeals.
3. Establishing adequate conditions use of these designated lands and for potential future changes of use on lands brought into a jurisdiction under this approach.

We hope that DLCD staff will place these suggestions in the appropriate sections of the Draft Rule and adjust syntax and terminology, as needed for rulemaking.

Clarity of Purpose

The targeted industries approach should be clearly defined as a “reach” opportunity, not available through the traditional method for accommodating employment land need, where a specific economic opportunity and related land need (either within or without the UGB) can reasonably be foreseen, and be subject to enhanced analysis, findings and standards for

approval, than would otherwise apply with the traditional approach. This approach should only be used where a relative near-term opportunity for industry specific attraction exists and where potentially designated lands, using this approach, are particularly well-suited to the identified need and do not conflict with other plans in the area.

The TI approach should not allow wide-open speculation on possible future uses of the lands in question. Rather, if used, application of this approach should be specific about envisioned subsectors (using 3-digit NAICS Code) and a present a record of conversations with potential users and their specific needs. Otherwise, the standard approach should be used.

Use of the Targeted Industries approach should be limited by any jurisdiction to only once every 10 years.

Necessary Standards and Guidelines for Public Engagement, Local Decision-making and Potential Appeals

Engagement and transparency of decision-making

Assessment and evaluation of opportunity and related land and service needs though the EOA prepared for the proposed designation should include the following:

- Analysis of the ability to meet some or all of the proposed need within the City’s current UGB and the implications of accommodating the need in this way must be part of the Economic Opportunity Analysis prepared for the proposed designation. This analysis should include the potential for lands not currently zoned for industrial or employment to serve the proposed industry subsector needs identified and should include analysis of vacant and non-vacant lands for these needs.
- Regional considerations: Because most EOAs are prepared by economic consultants to cities or, in the case of larger cities, prepared by qualified economic development staff, knowledge and investigation of alternative site designations for these economic opportunities within the region should be evaluated as to why the proposed designation should be sought as a preferred site and not duplicate designations by other surrounding jurisdictions.
- The EOA should identify and explain the implications of any potential conflicts with State Land Use Goals 3, 4 and 5 and weigh the consequences/trade-offs thereof.

- Preparation of a Concept Site Plan including roads, development site(s), environmentally sensitive areas and associated acreages, typical lot sizes and access points should be required to be adopted as part of the City's Comprehensive Plan at the time of approval of the Targeted Industries land designations by the local government. The EOA prepared for the proposed designation should also consider maximizing density, including use of multiple floors, shared spaces, and limiting parking for the efficient use of land to be designated. Similarly, a budget (including existing or projected revenues) for sufficient infrastructure (including roads and utilities) and other necessary services should be incorporated into the approval.
- Finally, a statement of realistic projected employment on these lands by total number and general job type should be made and incorporated into the adoption of the designations and serve as a guide for implementation, including recruitment efforts.

Required Limitations on Lands Designated for this Purpose and for Potential Future Changes of Use

The use of land within the designated area shall be limited to those uses (industry subsector(s)) identified in the designation and related Comprehensive Plan text. Ancillary uses such as food services, day care, and similar uses may be allowed but shall not occupy more than 15% of total floor area. Dedicated office space that directly serve the industrial uses within a building or complex may occupy no more than 10% of the industrial floor space. Pocket parks or public-serving open spaces may be allowed and shall not count as floor area for the purposes identified above. Access for bicycles and to public transportation should be documented.

Permits for buildings and specific uses on the designated lands shall not be issued until the related Infrastructure and service plan is fully engineered and budgeted and any necessary agreements or conditions for reimbursement or infrastructure provision by developers of those sites and buildings have been secured.

With regard to potential future changes in the use of lands designated for Target Industries, whether that is a change to identify different or additional subsectors or for wholesale change of use, the following should be required:

- For changes to identified target industries or substantial changes to the Concept Site Plan, including changes to access, infrastructure provision and average parcel sizes, an

updated EOA and a Comprehensive Plan Amendment shall be required, both subject to a public hearing prior to adoption.

- Subdivision of land that does not conform to the adopted Concept Site Plan shall not be allowed, unless a Comprehensive Plan amendment is adopted in conformance with the needs of the target industry subsector(s).

- Where a EOP and Target Industry designation has been used to expand an Urban Growth Boundary and where a rezoning or Comprehensive Plan revision contemplates allowing non-employment use for that area or any portion thereof, other than permitted ancillary uses and their maximum allowable floor area, the Urban Growth Boundary shall be retracted to its pre-designated state. The local jurisdiction would then be required to employ standard processes and showing of need for UGB expansion for other intended uses.