



Oregon

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October 30, 2013

TO: Land Conservation and Development Commission
FROM: Bob Rindy, Senior Policy Analyst
SUBJECT: **Agenda Item 10, November 14-15, 2013, LCDC Meeting**

LONG TERM POLICY AGENDA

I. SUMMARY

This item is a progress report regarding development of the department's long-term policy agenda. At its meeting September 27, 2013, the commission approved a near-term policy agenda for the 2013-2015 biennium (Attachment A), but continued its consideration of the long-term policy agenda. The commission directed the department to work on a second draft of the long-term agenda, consider suggestions from the commission and the public, and provide a progress report to the commission at its November meeting.

For additional information about this agenda item, please contact Bob Rindy at 503-373-0050 Ext 229, email at bob.rindy@state.or.us.

II. SUMMARY OF DEPARTMENT RECOMMENDATION

No action is required at this meeting. The department will brief the commission on progress toward a long-term policy agenda. The department will suggest a timeline that provides for issuance of a revised draft in January and final adoption at the commission's March meeting.

III. OVERVIEW

The LCDC policy agenda has historically consisted of a list of policy projects to be pursued during a particular biennium. "Policy projects" are efforts by the department and the commission intended to result in new or amended statewide land use program policies, such as rulemaking or goal amendment efforts, workgroups to refine policy ideas, research projects to gather or process land use information necessary to inform policy, efforts to develop DLCD legislative proposals, and special projects such as the Southern Oregon regional pilot project.

This biennium the department recommended that the commission also consider a "long-term policy agenda" in addition to a near-term biennial agenda. As proposed in the department's report to the commission issued July 17, 2013, the purpose of the long-term agenda is to establish a set of major objectives and associated strategies that will provide long-term guidance to the department and the commission in determining future needs for policy work and other

department projects and initiatives. The long-term agenda could also include a list of particular policy projects to be pursued in future biennia in order to achieve these objectives.

At its meeting on September 27, 2013, the commission approved a near-term policy agenda, which described particular policy projects to be pursued during the 2013-2015 biennium (Attachment A). LCDC received additional comments about the first draft of the long-term policy agenda, discussed various aspects of the proposal and provided additional input to the department. It was agreed that the long-term agenda will require more time to prepare than had been initially proposed and consideration should be continued to future meetings.

IV. PROJECT UPDATE

The department is continuing its effort to develop a long-term policy agenda that is aligned with the Governor’s 10-Year Plan and also aligned with the department’s current (2010) Strategic Plan.¹ The purpose of the long-term policy agenda is to provide a road map regarding long-term program goals and objectives for the commission and staff as well as local governments, citizens, and other stakeholders, and to identify strategies and activities necessary to achieve these goals and objectives.² Once completed, the long-term policy agenda will “roll out” to division work plans and ultimately individual work plans.

The department is proposing to establish a process to complete the agenda by March of 2014. In order to align to the Governor’s 10-Year Plan, the department is proposing an eight-year plan (through 2022), with a re-evaluation in the fourth year (2018). As currently envisioned, the long-term policy agenda will include ongoing work, not only new strategies and activities. However, such ongoing work must be tied to a long-term goal or objective, that is, the plan should articulate the purpose of ongoing activity even if it is statutorily required.

The long-term policy agenda will also serve as a tool for the development of the department’s budget. Last biennium, the department was assigned to only one of the Governor’s “funding teams” – Healthy Environments – even though much of the department’s work is tied to other program funding teams (e.g., Jobs and Innovation; possibly Healthy People). This biennium DLCD hopes to be assigned to more than one funding team, better reflecting the breadth of the department’s work. We do note that the Department of Administrative Services is re-evaluating the budgeting process and that the 2015-17 budget instructions and process could be different.

V. ATTACHMENTS

- A. Approved Near-Term (2013-2015) Policy Agenda (and associated “Matrix”)
- B. Current Strategic Plan (2010)

¹ The Governor’s 10-Year Plan can be found at: <http://www.oregon.gov/COO/Ten/Pages/index.aspx>. A copy of the department’s current strategic plan can be found at: http://www.oregon.gov/LCD/Pages/about_us.aspx.

²Reflecting on comments made during the September meeting, particularly questions as to whether the policy agenda serves as a work plan or a list of rulemaking activities, whether and how the policy agenda incorporates other activities of the department, and how the long-term policy agenda relates to the existing Strategic Plan, the department believes the current effort is more appropriately labeled a “strategic plan,” encompassing (as described in the July staff report) both long-term objectives and associated strategies.



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Approved LCDC Policy Agenda for 2013-2015

In October 2013, the Land Conservation and Development Commission (LCDC) approved the following list of policy projects it intends to pursue in the 2013-15 biennium. These projects are intended to improve statewide land use policies and rules and respond to recent legislation, executive orders, and court opinions.

A. Complete Ongoing Policy Projects Underway from 2011-2013 Biennium

Policy projects listed below were initiated in the previous (2011-2013) biennium and are still underway – work on these projects will continue this biennium:

- 1. Provide for Electronic Submission of Post-acknowledgement Plan Amendments (PAPAs):** In 2011, while adopting new rules to implement 2011 legislation intended to speed up the PAPA process, LCDC instructed the department to consider methods that would authorize electronic submission of local government notices of proposed and adopted plan amendments. Final adoption of these rules occurred at LCDC's September 2013 meeting.
- 2. Determine how ODOT's Statewide Transportation Strategy for Reducing Greenhouse Gas Emissions Relates to the Statewide Planning Program:** The 2009 Legislature enacted legislation (HB 2001) directing state agencies to take a series of actions to help meet the state's greenhouse gas (GHG) reduction goals. In 2011, LCDC adopted rules setting GHG reduction targets for the state's metropolitan areas and in 2012, LCDC adopted rules to guide Metro in meeting its GHG reduction target. HB 2001 also directed the Oregon Transportation Commission (OTC) to adopt a Statewide Transportation Strategy (STS) that outlines how the state can meet state GHG reduction goals. The OTC "endorsed" a draft strategy in spring 2013, and is now working on an "implementation plan" that will identify more specific actions. The STS includes a number of land use strategies and actions and it is likely that new or additional efforts would be needed to achieve the changes called for in the STS. ODOT staff will be reaching out to affected agencies (including DLCD) to engage in dialogue about this work and OTC and LCDC may consider a joint subcommittee for such discussions.
- 3. Potential Sage Grouse Listing Under the Federal Endangered Species Act (ESA):** The Oregon Sage Grouse Conservation Partnership (SageCon) was convened by the Governor's Office, the Federal Bureau of Land Management (BLM) and the U.S. Natural Resources Conservation Service (NRCS) to ensure interagency and stakeholder coordination on issues related to sage grouse habitat conservation. The group is working on an "All Lands, All Threats" plan for nonfederal lands to complement efforts already being conducted by the federal agencies. Four workgroups have been established to assist Oregon's efforts, including a Fire and Invasives team, a Habitat Fragmentation team, and a Mitigation and a Technical Team. Each group includes one or more core state agencies and is led by a member of the

Governor's Staff. The state's goal is to provide alternatives to listing the sage grouse as a threatened or endangered species under the Endangered Species Act.

4. **Southern Oregon Pilot Project:** This pilot project began with 2009 legislation (HB 2229) and is continued through an Executive Order 12-07 and a legislatively approved funding package. The Southern Oregon Regional Pilot Project includes Jackson, Josephine and Douglas counties and may result in a petition for rulemaking to LCDC in 2014.
5. **Oregon Natural Hazards Mitigation Plan Update:** The Oregon Natural Hazards Mitigation Plan (NHMP, Plan) assesses risks from 11 hazards statewide, sets goals and establishes actions for mitigating risk and protecting people, property and natural resources. The updated Plan will include an introduction to climate change and a discussion of how climate change is expected to impact each hazard. While DLCD has long been a principal participant in the statewide natural hazards mitigation program, this biennium marks the first time the department has taken on the role of coordinator for the Oregon NHMP update. The update began in March 2013 and will be completed in February 2015.
6. **Endangered Species Act (ESA) Consultation Concerning Floodplains:** Floodplain management and habitat protection is the central issue in the ongoing "ESA section 7 consultation" between the Federal Emergency Management Agency (FEMA) and the National Marine Fisheries Service (NMFS) regarding the National Flood Insurance Program (NFIP). One outcome of this process that seems increasingly likely would be a requirement that NFIP jurisdictions in Oregon (many cities and counties) incorporate salmon habitat protection measures into their floodplain permit review criteria. If so, the department may propose changes to the Goal 5 implementing rules (OAR 660, div. 23) to help synchronize state planning requirements with habitat protection measures required under the ESA.
7. **Renewable Energy Planning for the Oregon Ocean Stewardship Area:** The department is working with state and federal agencies and stakeholders to identify a geographic location description of an area within the Oregon Ocean Stewardship Area where federal consistency requirements will apply to renewable energy proposals.
8. **Oregon Estuary Planning:** The department is in the midst of a major update of the estuary portion of the statewide planning program. Several projects are currently under way that will feed into future updates of estuary plans. Current projects include the Estuary Project of Special Merit, which will update estuary inventory information available to local governments and the public. The department also has completed a contract to begin an estuary trends assessment. In addition, the department is conducting an internal regulatory assessment to determine what types of streamlining or other improvements to the regulatory framework may be needed with regard to estuary management.

B. New Policy Projects Required by the 2013 Legislature

The following policy projects will be pursued in response to legislation enacted in the 2013 session or legislatively adopted budget notes suggesting specific DLCD action:

1. **Local “Legislative Plan Amendments” Budget Note:** A “budget note” by the 2013 Natural Resources Ways and Means subcommittee asks the department to convene stakeholders to develop recommendations for improving the process and criteria for “legislative amendments” to local land use plans and ordinances, and report to the 2015 legislature.¹
2. **UGB Rulemaking (HB 2254):** A new law enacted by the 2013 legislature is intended to simplify the UGB process and must be implemented through LCDC rules. DLCD must design a new UGB process, which must meet certain performance standards intended to ensure that urban growth is efficient and that the rate of conversion of farm and forest lands does not increase in major regions of the state. A rule advisory committee (RAC) was appointed by LCDC in October and is working with the department to propose these rules.
3. **Population Forecasting Rulemaking (HB 2253):** New legislation repeals statutes assigning forecasting to counties and instead assigns the responsibility for population forecasting (outside of Metro) to the Population Forecasting Center at Portland State University (PSU). The law requires new rules for implementation, both by DLCD and PSU. The university must adopt rules in consultation with the department and LCDC must also adopt new rules in consultation with PSU. The department will propose rules after PSU has completed its rulemaking. PSU rules will regulate the process for forecasting, while LCDC rules will clarify the “phasing in” of new PSU forecasts that will replace previous forecasts made under the repealed statutes.
4. **Youth Camps on Farmland (HB 3098):** A bill enacted in the 2013 session authorizes youth camps in EFU zones, and requires LCDC to adopt rules to provide for this use. The LCDC rules must be based on current rules authorizing youth camps in forest zones. This legislation was proposed in response to a request for expansion of the Younglife development in Jefferson and Wasco Counties.
5. **Housekeeping – Align Farm and Forest Rules to New Legislation:** Several existing rules for farm and forest land must be updated to conform to new legislation, including: HB 2393 (small-scale poultry processing), HB 2441 (agricultural buildings in forest zones), HB 2704 (transmission line review criteria), HB 2746 (EFU replacement dwellings), and HB 3125 (forest land divisions). These will be minor and technical amendments to conform existing rules to the new laws.

C. New Policy Projects Recommended by DLCD

In addition to the projects described in sections A and B, above, LCDC will consider the following policy projects in the 2013-2015 biennium, provided sufficient staff and other resources are available. These projects are not numbered to suggest any particular priority:

1. **State Agency Coordination (SAC):** ORS 197.040 requires that state agencies carry out programs affecting land use consistent with statewide goals and in a manner compatible with

¹After the session it was determined that this budget note was not adopted by the full legislature and as such, this is not a “required task” for the department. Nevertheless, the commission directed the department to convene stakeholders on this topic and provide a report to the legislature as per the recommended budget note.

acknowledged local comprehensive plans. LCDC last updated state agency coordination administrative rules in 1989; most existing SAC were approved by the commission around 1990 and have not been updated since. Legislation in 2009 modified this law and provided that DLCD “should” update SAC processes and revise related rules (OAR 660, divisions 30, 31). However, so far the department’s budget has not provided sufficient funding for this project and therefore it has not been pursued. This biennium the department will be working with one or two agencies that currently wish to pursue updates to their SAC programs; rulemaking may be initiated later, based on lessons learned through these updates.

- 2. Updating Local Plans:** Over the past decade a series of legislative measures have substantially narrowed the scope of periodic review by exempting small cities and all counties from the requirement to periodically review local land use plans. As a result, many local land use plans have not been updated since acknowledgement in the early- to mid-1980s. With diminished funding, and ultimately with the phasing out of periodic review, new strategies are needed to ensure plans are updated and remain in compliance with statewide goals. Related to this, many state laws and LCDC rules use periodic review as the “trigger” for particular requirements. As a result of the reduced scope of periodic review, many of these land use requirements have not been implemented and therefore have no effect. Finally, HB 2254 provides that cities using the new UGB methods (see B2, above) are not required to go through periodic review. However, LCDC must “...by rule, specify alternate means to ensure that the comprehensive plan and land use regulations of [a city that uses the new method] comply with the statewide land use planning goals and are updated over time to reflect changing conditions and needs” The department will convene a forum this biennium to consider ideas and recommendations for ensuring local plans are maintained and updated.
- 3. Citizen Involvement and Engagement:** The commission’s Citizen Involvement Advisory Committee (CIAC) has been tasked by LCDC with recommending methods to improve citizen involvement that do not impose new costs on local governments. CIAC has also been tasked with evaluating and recommending improvements to current methods intended to notify and involve the public in LCDC activities such as policy work.
- 4. Industrial Land Planning:** The commission will continue to discuss ways to improve the statewide industrial siting and economic development processes (Goal 9), both for urban and rural areas of the state. This project will likely take more than one biennium and will include:
 - A workgroup to consider direction and clarity for Goal 9 planning by jurisdictions within the Metro UGB. The recent Metro UGB and Metro urban reserve decisions by LCDC demonstrated that there is not sufficient clarity as to how “employment land needs” should be considered and provided for within the Metro area. This workgroup could recommend rulemaking, but not necessarily.
 - The department will continue to study the availability of developable industrial sites throughout the state and ensure adequate development-ready sites are being provided in both large and small cities.
 - The department will continue to explore ideas toward a faster land use process for so-called “Big Fish” employment opportunities. The department’s legislation developed for the 2013 session failed to achieve a consensus on this concept, but many ideas from that effort merits continued discussion.

- 5. Transportation Planning Rules (TPR) Adjustments:** Two minor adjustments to OAR 660, div. 12, the transportation planning rules (TPR), will be considered this biennium:

 - Amend the TPR to exempt Milton-Freewater from TPR requirements pertaining to metropolitan areas. The rules currently require newly designated Metropolitan Planning Organization (MPO) areas to develop “regional TSPs” within three years of designation. Recently the city of Milton-Freewater was included in an MPO that straddles the Oregon-Washington border (the Walla Walla Valley MPO). The department will propose a TPR amendment to exempt this city from this requirement, as previously done for Rainier. In both cases the major cities in the MPO are in Washington.
 - Change TPR references to MPOs for local governments in metropolitan areas: In 2006, the commission amended the TPR to clarify requirements for planning in metropolitan areas. A new rule was added to clarify how federally required planning should be done by MPOs, related to TPR required planning done by cities and counties. These changes recognized that the TPR doesn’t directly regulate MPOs (because they don’t make land use decisions). The 2006 amendments called for but did not make corresponding amendments to certain rules in the TPR. As such, the rules currently include outdated references to “MPOs” that need to be corrected for consistency.

- 6. Urban Service Agreements:** While state law requires urban services agreements (for jurisdictions in UGBs over 2,500), this requirement is implemented through periodic review and compliance has been spotty, especially since periodic review has been considerably reduced in scope over the last decade. Recent legislation on UGBs (HB 2254) requires such service agreements for cities over 10,000 that opt to use the new UGB process, but does not pertain to cities that do not choose to use the new process. The department sponsored a discussion on service agreements in 2012 which explored expanded requirements for cities not using the new UGB process. The department will reconvene this discussion and explore consensus toward new legislation for the 2015 legislative session.

- 7. Metro Area Annexation Issues:** Metro made a concerted attempt to follow streams and other natural features in establishing its UGB and urban reserve boundaries. However, that has resulted in many properties with portions inside the boundary and portions outside. An unintended consequence is that the planned “urban” portions of properties that straddle the Metro UGB or Reserve boundaries are difficult to annex and urbanize because the portion of the property outside the UGB is smaller than the required minimum lot size for farm and forest land. Under this policy project, the department will explore first whether this can be resolved by new or amended administrative rules. If rule solutions are not possible this project may propose new legislation for the 2015 legislature.

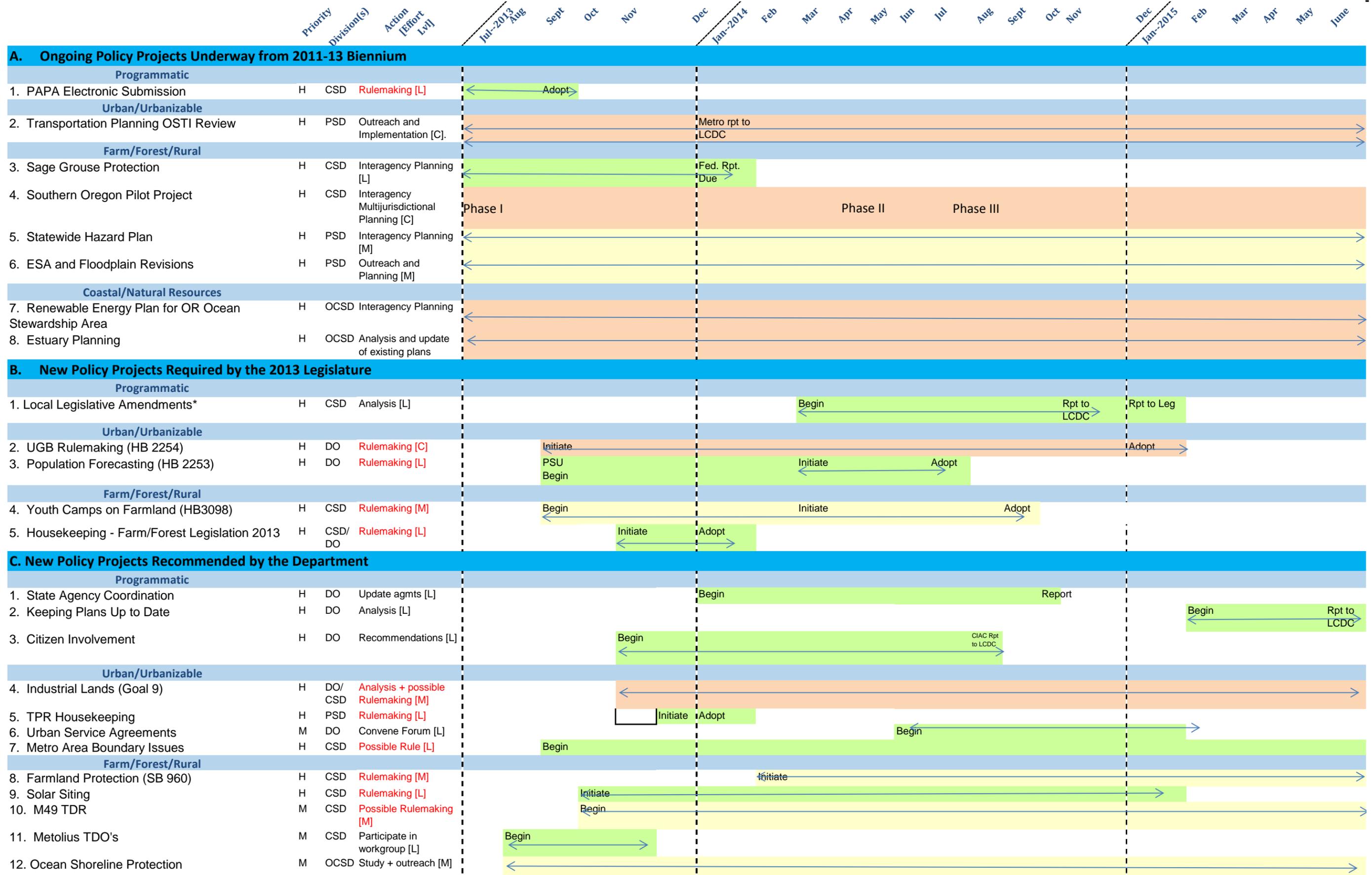
- 8. Farmland Protection.** There is a growing need to clarify agritourism related rules on farmland in order to prevent unintended cumulative impacts to farming. Counties report that applicants have circumvented statutory standards intended to regulate agritourism uses by instead applying for other related uses allowed on farmland that lack clear definitions and may therefore be interpreted to allow agritourism uses. For the near-term, the department will recommend administrative rule changes to align LCDC rules with recent agritourism statutes (SB 960). Longer term, the department will continue to explore ways to better define

“commercial activities in conjunction with farm use,” private parks, home occupations and farm stands.

- 9. Wildlife Standard for Solar Projects:** In February 2013, the Co-Chairs of the 2012 House Interim Committee on Energy, Environment and Water sent a letter to the LCDC chair requesting that the commission “undertake a rulemaking to amend the current wildlife standard that applies to the siting of solar projects on farmland.” The letter included an attachment with specific wording recommended by a workgroup appointed by the interim committee. The department will convene a workgroup to consider this proposal and make recommendations regarding amendments to administrative rules on this topic (OAR-660-033-0130(38)(h)).
- 10. Measure 49 Transferred Development Rights (TDRs):** Approximately 5,000 new Measure 49 (M49) dwellings are authorized on EFU and Forest land. Many of these potential dwelling rights could be “transferred” to other lands if a functioning transfer of development rights (TDR) program was established for M49 properties. Currently there is no such program, although M49 itself provides authorization for such a program. The department will convene an advisory committee to help define and clarify how counties could authorize local TDR programs for M49 properties.
- 11. Metolius Transfer of Development Opportunities (TDOs):** A bill in the 2013 legislature (HB 3536) was proposed to authorize significant new residential and commercial development at the existing Aspen Lakes golf course in Deschutes County; it did not pass. It proposed using previously authorized Metolius “transferred development opportunities” (TDOs) created through legislation in 2009 to protect the Metolius River. As a result of discussions with legislators and the Governor’s office, the department agreed to sponsor a stakeholder work group to evaluate options to use the TDOs on the Cyrus family property at Aspen Lakes. If this project results in reasonable proposals that have a consensus, new legislation may be developed for the 2015 legislative session.
- 12. Ocean Shoreline Protection:** The department will work with Oregon Parks and Recreation Department by jointly sponsoring a Coastal Fellow to conduct a preliminary analysis of the location of shoreline protection structures and the spatial distribution of properties that are eligible or ineligible for future armoring. This analysis will enable a comprehensive overview of locations where balancing competing uses will be especially challenging in coming years, and be used to inform future policy making.

For questions or additional information about LCDC’s 2013-15 Policy Agenda, contact Bob Rindy at 503-934-0008, or email at: bob.rindy@state.or.us

LCDC Policy and Rulemaking Agenda 2013-15
 (see Approved LCDC Policy Agenda for 2013-15)



*DAS later determined that this project was not "required" as the budget note was not adopted. However, for ease of reference with prior materials, the department elected to not show the change from "required" to "recommended" on this matrix.



Oregon Department of Land Conservation and Development

Mission:

To help communities and citizens plan for, protect and improve the built and natural systems that provide a high quality of life. In partnership with citizens and local governments, we foster sustainable and vibrant communities and protect our natural resources legacy.

Guiding Principles:

- Provide a healthy environment;
- Sustain a prosperous economy;
- Ensure a desirable quality of life; and
- Provide fairness and equity to all Oregonians.

Strategic Goals:

Secure Oregon's Legacy

- Conserve coastal, farm, forest, riparian and other resource lands.
- Promote a sense of place in the built and natural environments.
- Protect unique and threatened resources by guiding development to less sensitive areas.

Promote Sustainable, Vibrant Communities

- Integrate land use, transportation and public facilities planning.
- Provide for housing choices.
- Encourage economic development.

Engage Citizens and Stakeholders in Continued Improvements of Oregon's Land Use Planning Program

- Support regional perspectives and strengths.
- Ensure equitable application of regulatory programs.
- Develop strong, collaborative partnerships with citizens and communities.

Provide Timely and Dynamic Leadership

- Develop and coordinate strategic initiatives with other state agencies and local governments.
- Seek solutions that address immediate and long-range challenges including climate change, in collaboration with local governments, community and academic partners.

Deliver Resources and Services that are Efficient, Outcome-Based and Professional

- Provide local government with services and resources to support their comprehensive planning process.
- Communicate with the public in a timely and transparent manner.
- Focus on communications, staff training and administrative systems to ensure continued improvement of customer service.

