



Oregon

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TO: Land Conservation and Development Commission

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SUBJECT: **Agenda Item 4, September 24-25, 2020, LCDC Meeting**

INITIATE CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES RULEMAKING

I. AGENDA ITEM SUMMARY

Purpose. Staff from the Department of Land Conservation and Development (department or DLCD) will provide the Land Conservation and Development Commission (commission or LCDC) with a recommended charge and charter to initiate the Climate-Friendly and Equitable Communities rulemaking. Staff has identified Oregon Administrative Rules (OAR) Chapter 660, Divisions 12, 44, 7, and 8 as the rules most likely to be affected.

This rulemaking is a key element of the department's "Climate-Friendly and Equitable Communities" action within the four-agency *Every Mile Counts* work program. This is part of the department's response to Governor Brown's [Executive Order 20-04: Directing State Agencies to Take Actions to Reduce and Regulate Greenhouse Gas Emissions](#). These recommendations are based on extensive community outreach as well as feedback from the commission. The recommendations are expected to produce more equitable outcomes for land use, transportation, and housing on the ground as communities in Oregon grow and redevelop over time.

Objective. Staff seeks the commission's approval to initiate rulemaking based on the recommended charge and charter.

For further information about this report, please contact Bill Holmstrom, Land Use and Transportation Planning Coordinator, at 503-934-0040 or bill.holmstrom@state.or.us; or Kevin Young, Senior Urban Planner, at 503-934-0030 or kevin.young@state.or.us.

II. **BACKGROUND**

A. **OREGON'S CLIMATE, EQUITY, AND HOUSING CHALLENGES**

The Oregon legislature set goals for reducing climate pollution in 2007. Since that time, regular reports have repeatedly told us that we still have a long way to go to meet these goals, particularly in the transportation sector. As expressed in her Executive Order 20-04, Governor Kate Brown expects that the outcomes of this rulemaking should address historic injustice in land use, transportation, and housing.

The [2018 Report to the Legislature](#) from the Oregon Global Warming Commission notes that “more than half of the recent increased level of emissions is due to gasoline and diesel use... transportation emissions have grown as a share of Oregon’s statewide GHG emissions total compared to emissions from electricity use” (Page 36). The report goes on to say that “Oregon and the nation are off track in curbing vehicle greenhouse gas emissions and straying further away from the necessary pace every day” (Page 69). The report concludes that “Oregon and other states can enable progress on transportation emissions reduction with policies that incentivize low-carbon choices: electric vehicles, bicycle and pedestrian travel, and better urban design, to name a few” (page 69).

Oregon’s [Statewide Transportation Strategy](#) (STS), developed in 2013, set a series of trajectories that, if met, will ensure that state meets its climate pollution reduction goals. In 2018, ODOT reviewed the state’s progress toward meeting the vision in the STS. The [2018 STS Monitoring Report](#) found that “with current efforts and our newer plans, Oregon is on track to reduce GHG emissions by 15-20 percent below 1990 levels by 2050, which falls far short of the STS vision” (Page 26).

B. **EXISTING RULES**

Since 1991, the [Transportation Planning Rules](#) (TPR) (OAR Chapter 660, Division 12) have set transportation planning requirements for all Oregon cities and counties. These rules are designed to ensure coordinated land use and transportation planning and that plans include all modes of transportation. In metropolitan areas, the rules require that jurisdictions plan to increase transportation choices and reduce reliance on the automobile.

Since 2011, the [Metropolitan Greenhouse Gas Reduction Targets](#) (OAR Chapter 660, Division 44) have set climate pollution reduction targets for the state’s metropolitan areas. The rules require only the Portland metropolitan area to develop, select, adopt, and implement a scenario plan to meet the climate pollution reduction target. Metropolitan areas in the rest of the state may voluntarily attempt to meet regional targets.

It has become clear over the last decade that Oregon's rules are not sufficient to meet the state's goals for reducing climate pollution. The TPR does not require local jurisdictions to meet any particular climate goals, and the mechanisms requiring additional planning in metropolitan areas are outdated and ineffective. The voluntary nature of the climate pollution reduction targets outside of the Portland metropolitan area has not resulted in plans or actions that make a significant reduction in climate pollution. In many places, existing plans do not even move us in the right direction – they will likely result in additional climate pollution.

C. CURRENT EFFORTS

In March 2020, Governor Brown signed Executive Order 20-04, which directs state agencies to take actions to reduce and regulate greenhouse gas emissions. In response to the directives DLCD, in partnership with the departments of Energy, Environmental Quality, and Transportation, submitted the [*Every Mile Counts*](#) joint work plan to the governor on June 30th. *Every Mile Counts* actions are short-term (through 2022) and multi-agency actions to implement the Statewide Transportation Strategy (STS).

The *Every Mile Counts* work program includes a set of ten actions. DLCD is the lead agency for three actions:

- Climate-Friendly and Equitable Communities
- Scenario and Climate Pollution Reduction Planning
- Parking Management

The Climate-Friendly and Equitable Communities rulemaking will be a key part of implementing the requirements of paragraph 9 of the Executive Order, and the *Every Mile Counts* Inter-agency Statewide Transportation Strategy (STS) Implementation Work Plan.

In order to ensure that we meet our goals, we must help communities plan for a future that reduces driving while ensuring that all Oregonians enjoy improving access to jobs, housing, and services. The last ten years of studies and planning show that this is accomplished by:

- More development in climate-friendly locations, including city centers and town centers and transit corridors, where services are located and driving is reduced;
- Investments in facilities for walking, bicycling, carpooling, and transit so that people can reach destinations without depending on single occupancy vehicles;
- System performance measures that achieve community livability goals rather than exclusively focusing on motor vehicle capacity; and
- Managing parking to avoid over-building parking which subsidizes driving and uses space needed for housing and other services, as well as increasing housing costs.

The department's role in helping to achieve the state's climate pollution reduction goals will be through rule amendments and a supporting program to update how land use, housing, and transportation system plans are developed and implemented at the local and regional level.

With an equity lens of addressing historically disproportionate impacts in the land use and transportation system, department staff will help ensure that these changes reduce disparities at the local level. Impacted communities include Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes.

III. **SCENARIO PLANNING BACKGROUND**

A. **SCENARIO PLANNING POLICY OPTIONS**

Staff from DLCD and ODOT have prepared a Scenario Planning Policy Options Memo and included it in commission's packet as Attachment C. The main purpose of this memo is a discussion of various scenario planning approaches. Scenario planning is a regional transportation and land use planning process that allows local governments to evaluate existing plans and explore pathways towards achieving meaningful carbon pollution reductions.

The memo includes an alternative planning process informed by the scenario planning and Statewide Transportation Strategy for the reporting and monitoring of the actions necessary to achieve the greenhouse gas reduction targets. The memo includes review of the last decade of scenario planning work in Oregon, a discussion of the scenario planning tools in use, and an assessment of scenario planning policy options moving forward, with the associated costs of each.

In this memo, staff provide an analysis of three approaches for moving forward. Staff's recommended approach is to implement full scenario planning in the Central Lane (Eugene-Springfield) and Salem-Keizer metropolitan areas in the short term, and an alternative reporting and monitoring program for the remaining five metropolitan areas. With additional funding, scenario planning would be offered to Oregon's five smaller metropolitan areas in the future. Staff's recommendation is integrated into the recommended rulemaking charge described below.

B. **TARGET RULES REVIEW**

Oregon uses scenario planning to select a range of actions to meet a climate pollution target set for each metropolitan area. Staff have included a review of the Metropolitan Greenhouse Gas Reduction Targets in response to the requirement in the Metropolitan Greenhouse Gas Reductions Target Rules to review the existing targets by June 2021 (OAR 660-044-0035). This memo is included as Attachment D. Staff recommend no changes to the targets at this time.

Staff finds that the reduction targets and assumptions of the metropolitan share of future greenhouse gas emission rates are consistent with the Statewide Transportation Strategy. However, staff do recommend other specific updates to the rules to implement recommended scenario planning actions, and make some small updates to the Metropolitan Greenhouse Gas Reduction Rules. These recommendations also are integrated into the draft rulemaking charge.

IV. **RULEMAKING RECOMMENDATIONS**

In November, 2019, the commission resolved that:

“We are committed to adopting a Transportation Planning Rule that requires Metropolitan Planning Organizations and their respective local governments to collaboratively and comprehensively develop and implement transportation system plans and land use plans and actions that provide transportation choices and reduces greenhouse gas emissions consistent with LCDC's 2017 updated target requirements.”

Staff’s rulemaking recommendations are based on this resolution, additional feedback from the commission in subsequent meetings, information gathered from a more than 100 interested parties across the state, direction from Governor Brown’s Executive Order 20-04, discussion with the Governor’s Environmental Justice Task Force, and consultation with other state agencies.

A. **RULEMAKING CHARGE**

The department’s recommendations for the overall outcomes of the rulemaking, and the substantive actions needed to achieve them, are included in the recommended rulemaking charge (Attachment A) The charge also includes some general guidance to use in developing the amended rules, and includes a list of actions that are not included as part of the rulemaking. A summary of the charge is included here:

1. Desired Outcomes

Based on commission input, the department recommends that the commission charge the department and the Rulemaking Advisory Committee with recommending rules that will achieve these outcomes:

1. Take action with a sense of urgency and lasting programmatic response as mandated in Executive Order 20-04;
2. Meet Oregon’s climate pollution emission reduction goals and specifically, the Division 44 climate pollution reduction targets;

3. Support affordable, healthy living by developing actions that reduce transportation costs and increase housing choice and supply;
4. Improve the capability, through capacity building and interagency collaboration, of local governments, regional entities, and health providers to plan for and reduce climate pollution;
5. Ensure impacted communities, such as tribal communities, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in the public process are consulted and considered in state policies, programs, and grant criteria; and
6. Develop metrics that can be used to compare jurisdictions' equitable outcomes in achieving climate pollution reduction targets.

2. Proposed Actions

The department proposes that rulemaking actions be considered within two focus areas:

- **Planning for Carbon Pollution Reductions in Metropolitan Areas:** Require local governments in metropolitan areas to develop, adopt, and implement plans that can be expected to meet the greenhouse gas emission reduction targets in the Metropolitan Greenhouse Gas Reduction Target Rules in [Oregon Administrative Rules Chapter 660, Division 44](#).
- **Require Climate-Friendly and Equitable Land Use and Transportation Planning and Land Use Regulations:** Rules must build on existing requirements to implement a set of enhanced requirements for local governments to use in local land use and transportation planning, and for implementation through land use regulations. These include assumptions for more equitable housing, employment, and transportation outcomes.

B. RULEMAKING CHARTER

The department's recommendations for how the Rulemaking Advisory Committee should conduct business are included in the rulemaking charter (Attachment B). The recommended charter includes meeting principles and guidelines, a discussion on the decision-making process, information on the organizational structure of the committee, and other information.

C. RULEMAKING SCHEDULE

Staff expects the rulemaking process to take approximately 15 months.

September 2020	<ul style="list-style-type: none"> • LCDC Initiates Rulemaking
October	<ul style="list-style-type: none"> • RAC 1: Introduction, review charge and charter, what is in and what is out, climate and equitable outcomes panel
November	<ul style="list-style-type: none"> • RAC 2: Metropolitan scenario planning, regional planning • LCDC Update
December	<ul style="list-style-type: none"> • RAC 3: Performance measures (climate, equity, and housing)
January 2021	<ul style="list-style-type: none"> • RAC 4: Monitoring and reporting • LCDC Update
February	<ul style="list-style-type: none"> • RAC 5: Review of work to date
March	<ul style="list-style-type: none"> • <i>Legislative session</i> • <i>Workgroups as needed</i> • LCDC Updates
April	
May	
June	<ul style="list-style-type: none"> • RAC 6: Statewide minimum standards
July	<ul style="list-style-type: none"> • RAC 7: Relationship to housing production strategies, climate-friendly areas, stabilization • LCDC Update
August	<ul style="list-style-type: none"> • RAC 8: Housing rule amendments (divisions 7 and 8)
September	<ul style="list-style-type: none"> • RAC 9: Final draft review, impact statements • Rule filing (September 30) • LCDC Update
October	
November	<ul style="list-style-type: none"> • LCDC Hearing • RAC 10: Final adjustments (Contingent)
December	<ul style="list-style-type: none"> • LCDC Adoption

D. RULEMAKING ADVISORY COMMITTEE UPDATE

Staff are working to populate a Rules Advisory Committee according to the commission’s feedback in July. The current interest list is included in Attachment E.

V. RECOMMENDED ACTION

The department recommends that the commission initiate rulemaking to implement the Climate-Friendly and Equitable Communities action as an element of the Every Mile Counts work program as a part of implementing Executive Order 20-04. The department recommends that the commission direct the work of the staff and advisory committee as described in the recommended rulemaking charge and charter, and delegate authority to the Director to appoint members of the advisory committee.

Recommended motion to accept the staff report:

I move that the commission initiate Climate-Friendly and Equitable Communities rulemaking to amend OAR Chapter 660, Divisions 12, 44, 7, and 8 as described in the recommended charge; form a rulemaking advisory committee that will operate as described in the recommended charter; and authorize the Director to appoint members to the advisory committee.

Suggested motion to accept the staff report with modifications:

I move that the commission initiate Climate-Friendly and Equitable Communities rulemaking to amend OAR Chapter 660, Divisions 12, 44, 7, and 8 as described in the recommended charge [*as modified based on commission discussion, to include...*]; form a rulemaking advisory committee that will operate as described in the recommended charter [*as modified based on commission discussion, to include...*]; and authorize the Director to appoint members to the advisory committee.

VI. ATTACHMENTS

- A. RECOMMENDED CHARGE FOR CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES RULEMAKING**
- B. RECOMMENDED CHARTER FOR CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES RULEMAKING**
- C. SCENARIO PLANNING POLICY OPTIONS MEMO**
- D. TARGET RULES REVIEW MEMO**
- E. RULES ADVISORY COMMITTEE INTEREST LIST**