May 18, 2022

TO: Land Conservation and Development Commission

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SUBJECT: Agenda Item 3, May 19-20, 2022, LCDC Meeting

CLIMATE-FRIENDLY AND EQUITABLE COMMUNITIES
UPDATED PROPOSED RULE CORRECTIONS & PROPOSED MOTIONS

Based on legal and staff reviews, and public comments received, staff have identified a few necessary corrections to the draft rule language under consideration for the commission’s hearing on May 19, 2022. All proposed corrections are to provisions in Division 12, the Transportation Planning Rules, in Attachment D to the staff report. The proposed corrections are indicated below, with underline indicating new language, and strikeout indicating proposed deletions. Following each correction is a brief explanation of the reason for the proposed correction.

- This updated corrections memo includes corrections from the May 12, 2022, corrections memo, and additional corrections.
- This memo also includes updated proposed motions for the commission to use when considering action.

I. CORRECTIONS

A. CORRECTION TO OAR 660-012-0005: DEFINITIONS

Correct OAR 660-012-0005(59), Attachment D, page 14, line 10, as follows:

(59) “Vehicle Miles Traveled (VMT)” means all metropolitan area household-based light vehicle travel regardless of where the travel occurs, and local commercial vehicle travel that is a function of household labor or demand regardless of where the travel occurs. Examples include commuting to work, going to school, going shopping, traveling for recreation, delivery vehicles, service vehicles, travel to business meetings, and travel to jobsites.
Reason: Correction proposed by local government to add additional flexibility in how commercial vehicle travel associated with household labor or demand is accounted for in travel demand models. The proposed edits allow models to remain aligned with the state greenhouse gas reduction targets as we transition from “strategic” greenhouse gas targets to the tools, data, and issues at the regional/TSP level used in implementation.

Since this existing rule is marked in strikeout and underline format showing proposed changes from the currently adopted language, the updated definition should be marked as follows:

(59) “Vehicle Miles of Traveled (VMT)” means all metropolitan area household-based light vehicle travel regardless of where the travel occurs. Automobile vehicle miles of travel. Automobiles, for purposes of this definition, include automobiles, light trucks, and other similar vehicles used for movement of people. The definition does not include buses, heavy trucks and trips that involve commercial movement of goods. VMT includes trips with an origin and a destination within the MPO boundary and excludes pass through trips (i.e., trips with a beginning and end point outside of the MPO) and external trips (i.e., trips with a beginning or end point outside of the MPO boundary). VMT is estimated prospectively through the use of metropolitan area transportation models.

B. CORRECTION TO OAR 660-012-0012: EFFECTIVE DATES AND TRANSITION PERIOD

Under the more urgent option, correct OAR 660-012-0012A(5)(d), Attachment D, page 39, line 10, as follows:

0012 (5)(d) Cities shall implement the requirements for electric vehicle charging as provided in OAR 660-012-0410(2) no later than March 31, 2023., after the July 1, 2022 effective date of amendments to the state building code adopted by the Director of the Department of Consumer and Business Services to implement ORS 455.417.

Under the more time option, correct OAR 660-012-0012B(5)(d), Attachment D, page 42, line 1, as follows:

0012 (5)(d) Cities shall implement the requirements for electric vehicle charging as provided in OAR 660-012-0410(2) no later than December 31, 2023., after the July 1, 2022 effective date of amendments to the state building code adopted by the Director of the Department of Consumer and Business Services to implement ORS 455.417.

Reason: Correction proposed by local government and further analysis found the effective date of our electric vehicle conduit rules could diverge from the effective date for requirements in the state building code for electric vehicle conduit.
C. CORRECTION TO OAR 660-012-0135: EQUITY ANALYSIS

Correct OAR 660-012-0135(2)(d), Attachment D, page 49, line 10, as follows:

*Develop key performance measures as required in OAR 660-012-0905, or review existing performance measures, for key community outcomes as provided in subsection (3)(a) over time; and continue to communicate with and involve the people in the community who are members of underserved populations; and*

**Reason:** The requirement to continue to communicate is included in other portions of Rule 0135, so it was redundant and confusing to repeat it in (2)(d).

D. CORRECTION TO OAR 660-012-0310: CLIMATE FRIENDLY AREAS

Correct OAR 660-012-0310(1)(d), Attachment D, page 60, line 32, as follows:

*The locations shall not be in areas where development is not allowed by provisions adopted pursuant to under authority of Statewide Planning Goal 7. Climate friendly areas may be designated in such areas subject to Statewide Planning Goal 7 if the local government has adopted requirements for development that will mitigate potential hazards to life and property, in compliance with Statewide Planning Goal 7.*

**Reason:** Clarifies that local governments adopt provisions to implement Goal 7, but Goal 7 is not the source of authority.

E. CORRECTION TO OAR 660-012-0320: LAND USE REQUIREMENTS IN CLIMATE FRIENDLY AREAS

Correct OAR 660-012-0320(9), Attachment D, page 67, line 36, as follows:

*As an alternative to adopting the development regulations in section (8), local governments may demonstrate with adopted findings and analysis that their adopted development regulations for climate friendly areas are expected to will result in equal or higher levels of development in climate friendly areas than those allowed per the standards in section (8), per the target residential and employment levels in subsections (a) -- (c). The local government must demonstrate that the alternative development regulations will consistently and expeditiously allow for the levels of development described below:*

**Reason:** Clarifies expectation that alternative development regulations would be expected to result in equal or higher levels of development than the standards in section (8), and must allow for the target levels of development provided in section (9).
F. CORRECTION TO OAR 660-012-0350: URBAN GROWTH BOUNDARY EXPANSIONS

Correct OAR 660-012-0350(1)(b), Attachment D, page 74, line 1, as follows:

The city and county must have submitted a major report within the last five years all regular reports as provided in OAR 660-012-0900 and have had that each report approved by order as provided in OAR 660-012-0915.

Reason: Clarifies the requirement for local governments and the path to correct any deficiency in required reporting.

II. RECOMMENDED ACTION

The department recommends that the commission:

1. Review the proposed corrections to administrative rules;
2. Consider public testimony on the draft rules; and
3. Adopt the proposed administrative rules, as corrected.

III. UPDATED SAMPLE MOTIONS FOR ADOPTION

Approve staff recommendation

“I move that the Land Conservation and Development Commission adopt amendments to Oregon Administrative Rules Chapter 660, Division 8, Division 12, and Division 44 as drafted in Attachments C, D, and E of Agenda Item 3, adopting the [more urgent option or more time option] of rule 12 in division 12, and incorporating the corrections in the updated correction memo dated May 18, 2022.”

Approve modified staff recommendation

“I move that the Land Conservation and Development Commission adopt amendments to Oregon Administrative Rules Chapter 660, Division 8, Division 12, and Division 44 as drafted in Attachments C, D, and E of Agenda Item 3, adopting the [more urgent option or more time option] of rule 12 in division 12, and incorporating the corrections in the updated correction memo dated May 18, 2022, with the following revisions [state proposed revisions].”

Hold the hearing open

“I move to continue the hearing for the purpose of accepting written testimony. Written testimony must be filed at the Salem office of the Department of Land Conservation and Development on or before [date to close record].”