



Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

November 21, 2024

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director
Gordon Howard, Community Services Division Manager
Leigh McIlvaine, Economic Development Specialist
Sean Carpenter, Senior Editor



Subject: **Agenda Item 5, December 5-6, 2024, LCDC Meeting**

Target Industries Approach Rule Adoption

I. Agenda Item Summary

Department of Land Conservation and Development (DLCD or the department) staff will present proposed rule amendments to Oregon Administrative Rule (OAR) chapter 660 division 9. The proposed amendments define and incorporate requirements for local governments that use the Target Industries Approach in an economic opportunities analysis (EOA). Department staff request that the Land Conservation and Development Commission (LCDC or commission) consider adopting the proposed rule amendment. The public comment period for this item closed on Oct. 16, 2024.

a. Purpose

Staff will summarize the department's proposed amendments to OAR chapter 660 division 9 and provide an overview of the department's engagement process that informed the rule.

b. Objective

The commission considers adopting the rule changes recommended by the department in Attachment A, or adopts the recommended rule changes with amendments.

For further information about this report, please contact Leigh McIlvaine, Economic Development Specialist at 971-701-1041 or leigh.mcilvaine@dlcd.oregon.gov.

II. Background

OAR 660-009-0015 outlines the process for an EOA and directs Oregon cities to forecast long-range employment land demand for economic development.

EOAs must include specific analysis components. However, there are no requirements that describe how this analysis must be organized or what reasons a city may use to justify employment land needs. OAR chapter 660 division 24 (Urban Growth Boundaries) provides

“safe harbors¹” for forecasting population and employment growth as these projections relate to employment lands planning. Neither division 24 (Urban Growth Boundaries) nor division 9 (Economic Development) specify the methods local governments can use to translate employment or population growth to employment land need.

EOAs that assume greater employment growth than safe harbor sources are referred to as “aspirational.” Some aspirational EOAs supplement the local employment growth forecast in certain industry sectors with local knowledge, economic needs, or community vision.

Other aspirational EOAs identify land needs for specific industries at the start of analysis, rather than evaluating how expected job growth might translate to land need. This method of creating an aspirational EOA is commonly referred to as the Target Industries Approach. There are no clear guidelines for its application.

Several EOAs, most notably the North Plains EOA adopted by the city in 2022, have tested the limits of this undefined approach. Because it is undefined in OAR chapter 660 division 9, use of the Target Industries Approach can result in legal challenges to local governments’ land use planning efforts. Some recent applications of the Target Industries Approach also represent a departure from the integrated local comprehensive planning intended by Statewide Planning Goal 9: Economic Development. For example, EOAs that accurately demonstrate job growth potential on target industry sites help cities plan for the correct amount and type of housing through the local comprehensive plan.

The commission approved this rulemaking as a part of the department’s 2023-25 Policy Agenda in late 2023. The commission then initiated rulemaking in January 2024, when it approved a charge and a list of interests to be represented on the department’s proposed Rulemaking Advisory Committee or RAC. Staff have included the charge as Attachment B, and a list of RAC members as Attachment C. Department staff convened the RAC three times between March and July 2024 to ask for input and advice on the draft rules.

III. Purpose of Proposed Rule

The department is proposing rule amendments that define and clarify the Target Industries Approach by integrating the methodology into OAR chapter 660 division 9. The proposed amendments intend to accomplish the following objectives:

- Define how specific local governments must be when identifying target industries in aspirational EOAs.
- Formalize the Target Industries Approach by referencing the methodology in the rule that provides the process for an EOA.
- Establish a process for local governments to include and justify site needs for target industries.

¹ A “safe harbor” is a method provided by an LCD-adopted rule. If a local government uses a safe harbor, the local government is protected from legal challenges related to that source. Employment growth safe harbors identified in OAR 660-024 include Portland State University Population Research Center forecasts, and Oregon Employment Department Quarterly Census of Employment and Wage data.

- Require local governments to preserve target industries sites within reason for uses described in the EOA.
- Preserve the flexibility local governments currently have in employment lands planning by not limiting the Target Industries Approach to specific situations.

The main elements of the proposed rule amendments are summarized below. The full proposed draft rule is included as Attachment A.

1. Defining "Target Industry"

OAR 660-009-0005 provides definitions for key terms used in this division. The department has proposed including a definition of "target industry" that requires a local government to specify the industry classification within the North American Industry Classification System (NAICS) at a 3-digit or more specific level.

Proposed amendments to OAR 660-009-0025 provide that cities may select more than one target industry and may cluster several similar target industries together for the purposes of site identification and development flexibility. This rule would also prohibit cities from designating retail development as a target industry for the purposes of site designation. Local demand for retail is more closely associated with population growth.

2. Integrating the Target Industries Approach into an EOA

OAR 660-009-0015 provides the process and requirements of an EOA. This rule does not dictate how a local government should organize an EOA, or what methods cities must use to estimate long range employment land needs. Staff sought to maintain that flexibility in amendments proposed for this section. The proposed amendments to this section allow using target industries, along with potential employment growth, to estimate local employment land need. OAR 660-009-0015(2) requires that EOAs identify sites required for employment uses. The department proposes to amend this section to require that EOAs demonstrate how anticipated employment is allocated across identified sites. This proposed amendment, consistent with the rest of the rule, is intentionally non-prescriptive, allowing local governments flexibility in compliance.

3. Identifying Lands for Industrial and Other Employment Uses

OAR 660-009-0025(1) guides local governments in identifying sites needed for employment uses. The department has proposed amendments to this rule that differentiate between EOAs using the Target Industries Approach and those that do not. The proposed rule amendment explicitly allows local governments to include sites for target industries. The proposed rule also provides guidelines for how local governments identify and designate sites, including a requirement that local governments justify why sites fit the target industry specifications.

4. Protecting Target Industries Sites

The department proposes adding a new section (9) to OAR 660-009-0025. OAR 660-009-0025(9) will require local governments to protect target industry sites for anticipated uses, with some exceptions. This section requires that when local governments designate target industry sites they also adopt local land use regulations that preserve sites through zoning ordinances or other binding local measures.

This rule allows target industry sites to be used for unexpected employment purposes if the local government decides, with supporting findings, that the alternative use provides equal or greater economic and community benefit. Examples of higher economic and community benefit include job creation, job quality, property tax revenue, or equity considerations.

The proposed rule also prohibits “downzoning” target industry sites, preventing industrial sites from being developed for commercial or other uses, unless the local government conducts a new EOA that shows the site is no longer needed for the target industry.

This proposed amendment allows local governments to include provisions that allow the development of non-industrial uses on target industry sites if those uses are subordinate to and supportive of the primary industrial development. Subordinate and supportive use examples may include amenities and services for workers, such as childcare facilities, restaurants, or office operations associated with the primary industry.

The department also proposes lifting site restrictions for target industry sites that develop as intended but later become vacant. This allows any other land use on the site if approved by the local government and consistent with its comprehensive plan.

IV. Rulemaking Process

The department opened recruitment for the Target Industries Approach RAC in January 2024, following the commission's direction. The RAC included representatives of local governments and economic development districts throughout the state.

The RAC included representatives of local governments and economic development districts throughout the state. The RAC included representatives of local governments and economic development districts throughout the state. The RAC included representatives of local governments and economic development districts throughout the state. DLCD staff conducted additional targeted outreach to Eastern Oregon community members, port authorities, and other interested parties to ensure a diversity of perspectives were represented on the committee.

Business Oregon assigned a regional development officer to represent the agency's perspective. LCDC Commissioner Ellen Porter participated as a liaison to the RAC from the commission.

The department held three RAC meetings between March and July 2024. The first focused on committee members' responsibilities and an overview of the rulemaking process and timeline. Staff gave background on the Target Industries Approach, provided an initial draft of rule amendments, and asked questions for the RAC to consider before the next meeting. The RAC's second meeting included a comparison of EOAs conducted using the Target Industries Approach methodology. Staff provided an overview of the updated draft rule language, noting changes made based on RAC feedback.

The RAC met a third time to review and provide input on the updated draft. The RAC also reviewed the Fiscal Impact Statement as required by ORS 183.333. Included in Attachment A as part of the proposed rule, the fiscal impact on local governments was determined to be neutral to slightly positive.

The department convened the RAC a fourth and final time before the December 2024 LCDC meeting. During this meeting, staff solicited information from RAC members about resources necessary for local governments to implement the Target Industries Approach. Some RAC members expressed concern that the proposed rule does not prevent unnecessary UGB expansions.

The commission held a public hearing of the proposed rule amendment on September 27, 2024. No public testimony was provided during the meeting. The public comment period for this rulemaking concluded on October 16, 2024. The department received three comments during this time, included as Attachment D.

Land use and agricultural advocacy organizations represented on the RAC expressed concern in public comments that the proposed rule formalizes a pathway for aspirational UGB expansions. These comments state a preference for limiting the Target Industries Approach to certain circumstances or “exceptional opportunities”. Commenters have also recommended that the Target Industries Approach would be most appropriate within the context of regional economic analysis and not on a community-specific basis.

The department agrees that these are sensible recommendations, although addressing them is arguably outside the narrow rulemaking charge provided by the commission. Staff are hesitant to propose limiting access to a long-range planning methodology all local governments can currently use without restriction.

V. Recommended Action

The Department of Land Conservation and Development recommends the commission adopt the proposed amendments to OAR chapter 600 division 9.

Recommended motion: “I move the commission adopt amendments to Oregon Administrative Rules chapter 660 division 9 as recommended by the department and shown in Attachment A.”

Optional approval motion: “I move the commission adopt amendments to Oregon Administrative Rules chapter 660 division 9 as recommended by the department in Attachment A with the following changes: [identify changes].”

VI. Attachments

- A.** Notice of Proposed Rulemaking Including Statement of Need & Fiscal Impact
- B.** Rulemaking Charge
- C.** Rulemaking Advisory Committee Members
- D.** Public Comments

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



AGENDA ITEM 5
December 5-6, 2024-LCDC Meeting
ATTACHMENT A

ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 660
LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

FILED

08/28/2024 2:23 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amending employment lands planning for Target Industries Approach Analysis

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/16/2024 11:55 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Casaria Taylor
971-600-7699
casaria.taylor@dlcd.oregon.gov

635 Capitol St.
Ste. 150
Salem, OR 97301

Filed By:
Casaria Taylor
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/27/2024

TIME: 8:00 AM

OFFICER: LCDC

IN-PERSON HEARING DETAILS

ADDRESS: Department of Land Conservation and Development - Basement Hearing Room, 635 Capitol St. , Ste. 150,
Salem, OR 97301

SPECIAL INSTRUCTIONS:

Sign-up to testify in advance of the meeting <https://www.oregon.gov/lcd/Commission/Pages/Public-Comment.aspx>

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 719-359-4580

CONFERENCE ID: 86996661469

SPECIAL INSTRUCTIONS:

Password 533665

Sign-up to testify in advance of the meeting <https://www.oregon.gov/lcd/Commission/Pages/Public-Comment.aspx>

NEED FOR THE RULE(S)

Amendments to OAR chapter 660, division 9 that define the "Target Industries Approach" are needed to clarify this land use planning methodology for local governments in order to provide certainty and prevent unnecessary legal challenges to urban growth boundary expansions for employment lands.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” (ORS 183.335(2)(a)). For the purposes of this statement, racial equity has been defined as treating people of all races fairly, justly, and without bias. The agency is required to attempt to determine the racial groups that will be affected by the rule, and how the rule will increase or decrease disparities currently experienced by those groups. In this context, a disparate treatment of racial groups may be supportable if it addresses current disparities.

The proposed rules are not expected to negatively impact racial equity and equitable outcomes. The new rules clarify an approach that is already widely utilized under statewide Goal 9, and as such are not expected to significantly alter the magnitude or nature of employment growth at the jurisdictional level. The rules are part of the directives for the preparation of an Economic Opportunities Analysis (EOA), and address a methodology used to assess the demand for land to accommodate anticipated employment growth. Accurately identifying this need is not linked to racial equity and equitable outcomes.

The proposed rule modifications would be expected to maintain the status quo on racial equity.

FISCAL AND ECONOMIC IMPACT:

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 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 under the North American Industry Classification System. 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. EOAs started before and completed after this date are subject to the rules in place at the time the project was initiated.

The language in OAR 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 flexibility regarding how this requirement is met.

The new rules require that jurisdictions link target industries to required site characteristics. OAR 660-009-0025 (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 economic and community benefit.” OAR 660-009-0025 (9)(a)(A).

Rezoning of target industry sites for residential or commercial use is prohibited unless a local government adopts a

post-acknowledgement plan amendment, including an updated EOA. OAR 660-009-0025 (9)(a)(B).

Target industry site protections may include measures that prevent or restrict incompatible uses on adjacent lands. OAR 660-009-0025 (9) (c).

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. Safe harbor approaches to estimating employment growth are provided in OAR chapter 660, division 24. These safe harbor data sources guarantee that local governments may rely on employment or population growth data without legal challenge to those sources.

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 more 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 and economic 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.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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. 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.

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.

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

These rules do not directly affect small businesses, so no small businesses were represented on the Rulemaking Advisory Committee. Economic development organizations that serve small and large businesses participated on the Rulemaking Advisory Committee and represented the perspective of local industry. Small businesses may provide public comment to department staff or to the Land Conservation and Development Commission that will be included in the public record.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

HOUSING IMPACT STATEMENT:

ORS 183.335(2)(b)(E) and ORS 183.530 require that rules adopted by the LCDC include an "estimate of the effect of a

proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel.” ORS 183.530. This Housing Impact Statement (HIS) is described in ORS 183.534.

The new rules will not directly impact the production of housing, having no impact on the construction cost of housing (materials, labor) or broader impact areas such as interest rates and underwriting requirements. To the extent that utilizing a target industry approach as defined in the rules results in higher levels of employment growth and/or higher wage levels, they may impact the local demand for housing.

As noted previously, the proposed rules define and clarify an allowable target industry approach in the preparation of an EOA, but this approach was allowed under the existing rules. The new rules may increase the percentage of local jurisdictions utilizing this approach, which would be expected to positively impact economic development outcomes.

A marginal increase in a jurisdiction’s employment base would be linked to an increase in the demand for housing. While this demand may be met outside of the jurisdiction, economic theory would anticipate that the demand for local housing would increase due to the preference of workers to limit commuting costs. Housing that is proximate to significant employment concentrations is significantly more marketable. The relationship between housing demand and employment is significant and can impact housing prices.

Higher employment rates and better-paying jobs generally lead to increased household incomes, increasing their ability to afford housing payments.

Areas with robust job markets tend to attract more people looking for employment opportunities, creating additional demand for housing units.

Employed individuals often seek housing in areas that offer reasonable commute times to their workplace, leading to higher demand in neighborhoods close to major employment centers.

If the supply of available housing units fails to keep up with the increasing demand driven by employment growth, prices can rise due to competition.

Despite the link between increased demand and housing prices, the impact associated with the proposed new rules is not expected to be significant. The new rules are not expected to substantively impact employment growth patterns as they clarify as opposed to expand allowable methodologies that can be used in the preparation of an Economic Opportunities Analysis. In addition, an expanded employment base may also increase household incomes and ability to pay for housing.

In summary, the rules would be expected to have a negligible impact on home pricing for a 1,200 square foot home on a 6,000 square foot lot. Our expectation is that the new rules will not significantly impact land need estimates and economic development outcomes for most jurisdictions, and as a result, will not impact housing prices.

RULES PROPOSED:

660-009-0000, 660-009-0005, 660-009-0010, 660-009-0015, 660-009-0020, 660-009-0025, 660-009-0030

AMEND: 660-009-0000

RULE SUMMARY: This rule change updates the name of Goal 9 from “Economy of the State” to “Economic Development” to conform with amendments adopted to this rule in 1988.

CHANGES TO RULE:

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, Development (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~~197.040

Statutes/Other Implemented: ORS 197.712

RULE SUMMARY: This rule provides definitions for key terms referenced in Chapter 600 Division 9. This rule is amended to introduce a definition of the term "target industry." It is also changed to exclude the Walla Walla Valley Metropolitan Planning Organization from conditions placed on metropolitan planning organizations required by this division.

CHANGES TO RULE:

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 and Walla Walla Valley MPO are 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.¶¶

(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.¶¶

(145) "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 183,19797.040

Statutes/Other Implemented: ORS 197.712

AMEND: 660-009-0010

RULE SUMMARY: This rule states the circumstances under which chapter 660, division 9 applies. It is amended to reflect the effective date for amendments proposed for adoption in 2024.

CHANGES TO RULE:

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 2024 amendments to this division are effective January 1, 2007~~25~~. 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~~97.040

Statutes/Other Implemented: ORS 197.712

RULE SUMMARY: This rule provides the process and required components of analysis for an Economic Opportunities Analysis. It is amended to incorporate the target industries approach as a formalized and optional methodology that local governments may use in their Economic Opportunities Analysis. It is also amended to introduce a requirement that local governments approximately allocate expected job growth to employment sites identified in the Economic Opportunities Analysis.

CHANGES TO RULE:

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) Local governments identifying target industries and designating sites in an economic opportunities analysis may rely on former or current industry classifications if the NAICS is updated after submittal of a notice pursuant to ORS 197.610 and OAR 660-018-0020 of a proposed change to a comprehensive plan or land use regulation.¶

(6) 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 183,197-197.040

Statutes/Other Implemented: ORS 197.712

AMEND: 660-009-0020

RULE SUMMARY: This rule provides the required and recommended economic development and industrial policies that local governments include in their comprehensive plans. It is updated to current statute references.

CHANGES TO RULE:

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~~ORS 197.040

Statutes/Other Implemented: ORS 197.712

RULE SUMMARY: This rule provides the required elements of comprehensive plans related to the designation of lands for industrial and other employment uses. It is amended to allow for two methods of identification of needed sites – first through “safe harbor” options already available to local governments, and secondly through designating sites for recruitment and development of target industries. The rule is also amended to describe how sites designated for use by target industries must be protected and may be developed.

CHANGES TO RULE:

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. Plan 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 and counties may also designate mixed-use zones to meet multiple needs in a given location 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 other than as allowed under OAR 660-009-0025(9)(a)(C).¶¶

(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 use offers the community equal or higher local:¶¶
- (i) economic benefit; and¶¶
- (ii) 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 retail commercial or 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) Protect, where necessary, a site for the intended use by including measures that either prevent or

appropriately restrict incompatible uses on adjacent lands.[¶]

(10) Sites designated for target industry use under OAR 660-009-0025(1)(b) that are subsequently developed, occupied, and vacated by target industries or locally approved unanticipated employment uses allowed by paragraph (9)(a)(A) may be redeveloped for or occupied by any economic sector.

Statutory/Other Authority: ORS 183,197-197.040

Statutes/Other Implemented: ORS 197.712

AMEND: 660-009-0030

RULE SUMMARY: This rule encourages collaboration between jurisdictions for regional analysis. It is updated to current statute references.

CHANGES TO RULE:

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~~ORS 197.040 & ORS 284.577

Statutes/Other Implemented: ~~ORS 197.712, ORS 284.580~~



Goal 9 Target Industries Approach Rulemaking Charge

Members of the Goal 9 Target Industries Rules Advisory Committee (RAC) will provide assistance to agency staff to analyze, draft, and recommend amendments to Oregon Administrative Rules (OAR) 660-009, Economic Development, that provide guidance and clarity around the use of the Target Industries Approach in Economic Opportunities Analyses and related provisions in OAR 660-009.

The Land Conservation and Development Commission will consider amendments to administrative rules that:

- Define the term “Target Industries Approach” and related terms to support its application in Economic Opportunities Analyses through clear requirements and integration with related provisions in OAR chapter 660 division 9.
- Are informed by a Rules Advisory Committee (RAC) composed of subject matter experts, local officials, and interested parties subject to the rule.
- Identify instances in which a city subject to OAR 660-009 would apply the “Target Industries Approach” rather than established processes for projecting land need through employment growth forecasts.
- Do not impact the flexibility of employment growth forecasting as currently exercised by cities subject to OAR 660-009.
- Establish guidance in OAR chapter 660, division 9 requiring that job growth projections are connected to land and site needs identified through the Target Industries Approach in Economic Opportunities Analyses.
- Are informed by existing case law addressing the use of the Target Industries Approach, and rely on the use of existing resources to provide rationale for analyses.
- Establish a voluntary “safe harbor” option in OAR chapter 660, division 9 allowing cities to rely on designated sources to justify land need identified through the Target Industries Approach in an Economic Opportunities Analysis.
- Include provisions that protect or preserve specific sites identified through the “Target Industries Approach” for use by targeted industries. If approved, this charge would lead the document of operating principles for the RAC as they begin their work.

Goal 9 Target Industry Rulemaking Advisory Committee Members

Land Conservation and Development Commission Liaison:
Commissioner Ellen Porter

Larry Holzgang	Business Oregon
David L. Reid	Chamber of Commerce
Bryan Pohl	City of Forest Grove
Caroline Ervine	City of Prineville
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
Denise Stilwell	SCOEDD
McRae Carmichael	Mid-Willamette Valley COG
Jerry Johnson	Johnson Economics
Heather King	Environmental/Climate Advocacy
Nellie McAdams	Farm Bureau/Agricultural Interest

Stewaert Peterson	Industrial Developer
Ryan Schera	Industrial Developer
Gil Kelley	Land Use Advocacy
Fredericka Banks	Low Income Advocacy
Ted Reid	Metro Regional Government
Dave Hunnicutt	Property Right Advocate
Andrea Klaas	Port of The Dalles
Beth Goodman	Real Estate/Consulting Firms (experienced with EOA)

Goal 9 Target Industry Rulemaking Advisory Committee Staff

Brenda Bateman	DLCD Director
Leigh McIlvaine	Economic Development Specialist
Gordon Howard	Community Services Division Manager
Casaria Taylor	Senior Rules Coordinator
Alexis Hammer	Legislative and Policy Manager
Aurora Dziadul	Legislative and Policy Analyst

From: [Beth Goodman](#)
To: [TAYLOR Casaria * DLCD](#)
Subject: Goal 9 Target Industries - Draft rules
Date: Monday, September 9, 2024 3:31:56 PM

Casaria -

I am on the RAC for the Goal 9 Target Industry Rule making. Could you enter the following into the comments to LCDC?

Thank you for the rule making process and the development of the draft rules. The process was executed in a clear way, allowing for a wide range of feedback, which is reflected in the draft rules.

I'd like to offer my support for the draft rules. They add clarity to an aspect of Goal 9 that has long been unclear and provide guidance to a City for how to execute on a target industry land analysis. The rules provide some flexibility in that execution, as well as guidance on the required elements of the analysis.

Thank you for the opportunity to participate in the rule making committee.

Beth Goodman,
ECONorthwest

Beth Goodman (*she/her*)
Senior Policy Advisor and Project Director
ECONorthwest | www.econw.com | 541-505-7203

Portland | Seattle | Los Angeles | Bend | Boise | **Remote**



From: [Sarah Taylor](#)
To: [TAYLOR Casaria * DLCD](#)
Cc: [Bob Sallinger](#); [Cassie Cohen](#); [Rose Longoria](#); [Columbia Slough Watershed King](#)
Subject: Target Industries Rule Making Comment
Date: Saturday, October 5, 2024 9:17:22 AM

[You don't often get email from sarahsojourner@mac.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Good Morning,

I am part of Portland's EOA working group. I have a few concerns regarding the Target industries Approach in the EOA.

Primarily, I believe the rule must clarify who decides what the Target Industries are and what their impact is on existing communities. It must clarify how the Target Industries will support the other land use goals.

I would suggest being very specific about public outreach and comment with a public health analysis.

Sincerely,
Sarah Taylor

From: [Farmland First](#)
To: [TAYLOR Casaria * DLCD](#)
Subject: Comments on Goal 9
Date: Wednesday, October 16, 2024 11:49:42 AM

You don't often get email from farmlandfirstor@gmail.com. [Learn why this is important](#)

Dear Casaria,

Please record the comments below into the record on the Goal 9 rulemaking.

Many thanks,
Nellie

Dear LCDC,

Thank you for your leadership and vision in supporting and improving the land use program. I had the honor of participating in the Goal 9 rulemaking around the target industries approach. This process was expertly led by staff, and included good and genuine conversation. The rule itself is a start to limiting this theory of economic development that has shown a propensity to justify unusually large UGB expansions. It is good to require large lots to be preserved for the exceptional use that justified their inclusion. And it is good to describe this use with specificity at least to the 3-digit NAICS level.

My main concern is the narrowness of the original charge and that it misses the mark on underlying issues, like speculation on UGB expansion for potentially unrealistic purposes, without specified need or ability to afford public services to the new industry, and in a way that can be manipulated by those who simply have a strong, personal interest in increasing their property value by changing its designation from EFU to within the UGB.

The use of Target Industries approach is supposedly done when an industry is new to a city. If that industry does not materialize, but new UGB lines are drawn, land values and expectations change and while the land may remain in farming it is impractically difficult and expensive to ever convert unneeded land back to EFU. For that reason, this approach should only be used in the most unusual situations, and with the greatest burden of evidence that this location is uniquely suited to the industry and that the industry is actually likely to arrive in this location in a reasonable time period. The rules do not provide sufficient proof of suitability, demand, or likelihood. They also do not require cities to demonstrate that they could actually afford the increased infrastructure costs of the industry. The rules can add as much specificity through NAICS as we like, but specificity does not speak to whether the industry actually would or could locate there.

I also have grave concerns that multiple neighboring cities will use the same approach to attract the same industry, when any area has a carrying capacity for a new industry. If multiple cities qualify as potential sites for a land-extensive industry and the industry only locates at one or none of those cities, the land is in the UGB and is very likely to be shifted to another purpose. Whether this is an unintentional result of having eyes to big for the city's plate, or an intentional bait-and-switch strategy, the adverse effects of this approach are magnitudes larger when applied by multiple municipalities in a region.

I also want to flag that the existence, size, and location of some of the largest UGB expansions

are the result of years of lobbying by landowners who simply want to sell their land for 30-50 times the property value. This lobbying is sometimes orchestrated under contingency lobbying contracts that are unlawful under ORS 171.756(3). I have filed a Government Ethics Complaint against Tom Vanderzanden, whom I allege has orchestrated such contingency lobbying contracts in Washington and parts of Multnomah Co. His contracts were largely responsible for lobbying for the North Bethany development. And now he stands to make tens of millions in commissions if he is successful at bringing 1700 acres of Rural Reserve land into Hillsboro under Senate Bill 4.

These needless UGB expansions are often fueled by pitches for a hypothetical white whale industry - such as UGB expansions justified by the Target Industries approach - or attempts to override public process via legislative action (aka supersiting) - such as the current unsupported argument for Rural Reserve land in Hillsboro, ostensibly under Senate Bill 4 (2023). Needlessly extensive expansion not only destroys our natural resources, agricultural land, and carbon sequestration opportunities, it results in increased urban footprints that must be serviced now and long term by cash-strapped cities. It is poor planning on the back of all taxpayers in exchange for the personal benefit of a few, and it should not be tolerated.

In a nutshell, the Target Industries work was well administered, but is just window dressing to underlying issues, and this approach in itself is still very open for abuse.

I recommend a broader rulemaking that examines Goal 9 in general, including:

- How cities can prove the actual likelihood and unique suitability of a new industry in their footprint,
- Looking at economic development goals in and of themselves, instead of just land needs, since when the EOA process is the way to justify UGB expansions, cities are more likely to cherry pick land-extensive industries, whether or not those industries are likely to arrive.
- A regional approach, e.g. through Regional Solutions, where multiple cities in an economic-shed decide what industries to promote across the region, and
- Genuine evaluation of un-utilised and under-utilized lands inside of UGBs
- Considering land specifications that are generally acceptable, not perfect case scenario, for industries. Consultants or interested parties may over-work specs to create an impression that less industrial land is available than there truly is.
- Banning the use of contingency contracts by lobbyists, requiring disclosure of personal gain in testimony to bring land into UGBs, instituting a windfall tax on UGB expansions, and examining how to mitigate personal gain as a driving force of UGB expansions.

Farmland First and I are happy to work with you on these issues.

Best regards,
Nellie

GIL KELLEY
Urban and Strategic Planning

Portland - San Francisco - Vancouver, BC
gilkelly1@gmail.com – (01) 503.936.6564

October 16, 2024

Oregon Land Conservation and Development Commission

635 Capitol Street NE, Ste 150

Salem, Oregon 97301

Attn: Leigh McIlvaine

Subject: Goal 9 – Rule-making for the Target Industry Approach

Dear Commissioners,

As a member of the Board of 1000 Friends of Oregon and the Chair of its Policy Committee, I have had the privilege of serving on the Rule-Making Committee for this subject, representing the interests of 1000 Friends and drawing on my decades of experience as an urban planner and economic development professional. I am writing to you in advance of your December decision on the proposal Rule to bring a number of issues to your attention that, in my view, were not satisfactorily addressed in the rulemaking process nor resolved in the proposed Rule presented to you in September by DLCD staff. This is by no means a criticism of staff. They did a very good job of formulating agendas, questions and discussion prompts for the Committee, and responding to various inquiries and suggestions from that group. Instead, I raise some fundamental questions about the purpose, definitions and potential use of the Rule itself and ask that you remand the proposed rule to staff for a broader look and potential ways to serve the purpose of this economic development tool while minimizing its unintended and potentially deleterious effects. I believe such a additional work is warranted to adhere to the principle of thoughtful, long-term stewardship of the land (our most precious resource) that your Commission, the Department and 1000 Friends is so committed to.

First the rule must do more to recognize that the Target Industry Approach *should be the rare exception to the normal process* of setting aside land in cities – or expanding their urban growth boundaries - for industrial and employment uses. This should be reserved for cases where there is very foreseeable and near-term prospect of locating a specific user or subsector for which the proposed use of this alternative approach is warranted due to specific attributes of this location over those of others within the region. Otherwise, we may have any number of cities within the same region proposing “me too” expansions, in hopes of attracting the same user(s), resulting in an excess of prematurely urbanized land for industry that may not appear, whereas in most parts of the state today there is a 20-year supply of industrial land already inside urban growth boundaries to satisfy such demands at a regional scale. The corollary risk is that this excess land is taken out of other productive economic uses like agriculture where loss of those lands for those uses is indeed a loss to the State’s balanced economy. The irony of the current

rulemaking effort is that providing more specificity to the process for using what should be an exceptional approach to securing economic land need, without addressing the shortcomings noted below, it now has the look and feel of a standard process not one to be used for exceptional circumstances.

These are the shortcomings of the proposed rule which I and some others have raised during the committee process:

1. There is not but should be a required *regional analysis* as part of the Economic Opportunity Analysis which examines the need, likelihood and potential alternative locations for the proposed target industry.
2. The requirements for specifying and retaining the physical layout, securing the necessary infrastructure funding and preventing its reuse of this land for that other than originally intended use is minimal and needs further specificity, so that these provisions are enforceable.
3. The provisions to rescind the proposed site(s) from the Urban Growth Boundary, if a UGB expansion is part of this, if no substantial use for a target industry appears within a defined period of time is weak and must be strengthened. The proposed alternative of not rescinding the boundary expansion and instead allowing use of these new lands for “use of equal or higher economic value” is fraught with difficulty to interpret and enforce and should instead be the subject of a new economic opportunity analysis and potentially using the simpler, more straightforward standard process.
4. The role of Business Oregon to support economic opportunity analyses with better and more current information about potential target industries and their needs as well as up-to-date inventories of vacant and underdeveloped industrially zoned lands and their readiness should be encouraged.

1000 Friends fully supports wise and robust economic development in the State, serving our communities with opportunities for jobs and advancement. This is best done within the rational and thoughtful approach to judicious use of land and infrastructure funding that maximizes these opportunities and balances and accommodates the needs of multiple economic sectors from high tech to agriculture. It is in this spirit that we ask you to remand the proposed rule to staff and the Committee with this broader charge.

Sincerely,

A handwritten signature in dark ink, appearing to read 'C. Kelley', with a long horizontal flourish extending to the right.

Gil Kelley, FAICP

Gil Kelley Urban and Strategic Planning on behalf of 1000 Friends of Oregon