

Target Industries Approach Rulemaking – Background & Rulemaking Charge

January 30, 2024

Background

Local economic development is prioritized by Statewide Land Use Planning Goal 9, which directs communities to provide an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with comprehensive plan policies. Oregon Administrative Rules Chapter 660, Division 9, Section 15 provides the process through which cities conduct an analysis of economic opportunities. The Economic Opportunities Analysis (EOA) forms the basis for a city to establish and maintain a 20-year supply of employment land.

OAR 660-009-0015 (Economic Opportunities Analysis) and OAR 660-024-0040 (Land Need) do not prescribe specific sources of population or employment growth data as a requirement for forecasting land need. Cities subject to these rules are allowed a wide degree of flexibility in determining how much job growth is expected and how that job growth translates to land need. One method of forecasting land need is referred to as the “Target Industries Approach.” This method was advanced by Woodburn in its adopted EOA, which was subsequently challenged in the Court of Appeals in 2014. The Target Industries Approach, as summarized in that decision, is defined below:

“[T]he target-industries approach considers a local government’s employment-growth projections and goals for employment and establishes a framework for attracting the kind of employers that could reasonably be expected to support the kind and amount of employment growth to which the local government aspires. Given the site needs of those particular employers, the local government identifies potentially available land both within and outside its UGB and selects a group of sites and an amount of land that it believes will accommodate the employers that it seeks to attract. The target-industries approach differs from an ‘employees-per-acre approach under which a local government simply projects employment growth and divides that growth by a statistically accepted number of employees per acre of land in order to arrive at the number of acres needed to support employment growth.’”¹

Many cities use the Target Industries Approach to identify desirable industries and develop a site inventory and comprehensive plan policies that support attraction or retention of targeted industries. This approach to justifying land need is well established and supported by case law, but it has not been defined or codified in OAR. A recent application of the Target Industries Approach in the city of North Plains’ Economic Opportunities Analysis advanced the argument that employment land need does not need to correlate to forecasted job growth, and further that the Target Industries Approach can be applied across all industrial land need without specifying particular economic sectors. The Department seeks to clarify any potential areas of ambiguity in the application of the Target Industries Approach in this draft rulemaking charge.

¹ 1000 Friends of Oregon v. Land Conservation and Development Commission, City of Woodburn, and Marion County. (Court of Appeals 2014). Available at <https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll5/id/612/rec/1>

Department staff have developed a rulemaking charge to guide the Rulemaking Advisory Committee's (RAC) work amending OAR 660-009 to provide guidance around the use of the "Target Industries Approach." It is intended that the charge will support the RAC's efforts by serving as an expression of commission expectations. Should there be confusion or disagreement among the RAC, the charge will be looked to for guidance. This rulemaking charge has been approved by the Land Conservation and Development Commission after review by DLCD's Urban Team, Policy Team, Citizen Involvement Advisory Committee (CIAC), and the Local Officials Advisory Committee (LOAC).

Proposed charge

Members of the Rules Advisory Committee (RAC) will provide assistance to agency staff to analyze, draft, and recommend amendments to Oregon Administrative Rules (OARs) 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.*