

HB 2488 Equity and Climate in Land Use Planning FAQ's

HB 2488 amends Oregon's statewide land use planning goals for climate change and equity. The successful passage of the bill will center impacted and historically disadvantaged communities in public involvement opportunities and establish CO2 and climate equity interim standards in land use decisions by 2023.

1. *Background. Why now?*

Climate change is an existential threat to the environment, food systems, human health and public safety. For impacted and vulnerable communities and people of color, the threat is disproportionate in magnitude and is a matter of survival. The world is nearing a tipping point. Oregon's land use program is recognized internationally as a strong and fair model statute, but it's 1970s Goals are nearly 50 years out of date as to climate change, equity, diverse representation and modern day public outreach tools. Despite the fact that we've known for decades that we must take immediate action to address climate impacts and reduce GHG's, *Oregon has not yet adopted climate mitigation criteria in land use policy.* While Oregon has a CO2e **mitigation** standard (75% below 1990 levels by 2050), which is being updated by EO 20-04, it is still "too little-too late." Oregon needs interim statutory standards for **equity, inclusion, adaptation-resilience** and **sequestration-carbon capture** and needs to rely on the updated mitigation standard.

2. *Why put off the final goal changes to 2027?*

The LC provides authority to develop interim standards for **adaptation, mitigation, sequestration** and equity by January 1, 2023 and, these interim standards are to be used until 2027 or such time when the goals are amended and local governments have changed their plans to conform to the newly minted goals, whichever comes first. It is reasonable to expect that more than one biennium will be needed to obtain the broad and diverse public involvement needed to amend the 19 statewide planning goals and/or to add a 20th Climate Equity Goal.

3. *Is there funding to make the goal changes?*

Governor Brown has set aside \$800,000 in the Governor's recommended budget to enable the scoping and adoption of the interim standards. In addition to a general fund appropriation in the 2023-2025 biennium, federal and private grants can be solicited and placed in a designated fund for the purpose.

4. *What about equity in public participation and land use planning?*

Communities that are already struggling because of historic inequities or other economic, social, or environmental challenges are much more vulnerable to the impacts of climate change, so their needs must be centered in the process of addressing climate impacts through Oregon system of land use laws.

Despite these mounting climate change impacts, Oregon's SB 100, our state land use laws, lack any environmental justice standards. This is a fundamental problem that hinders progress towards a future that is climate resilient and protective of public health. It is time to rectify the absence of environmental and racial justice values currently missing in the land use goals for the benefit of frontline communities.

Citizens Involvement, Goal 1 of Oregon's statewide planning goals calls for "the opportunity for citizens to be involved in all phases of the planning process." However, public notification is limited to current landowners in the immediate vicinity of proposed land use changes. The result is a focus on land owner stakeholders, not on public participation or questions of equity or broad environmental justice. Likewise, Goal 1 relies on archaic forms of communication and is based on what has turned out to be a weak premise, namely that appointed advisory committees making recommendations to local planning departments and elected officials will represent the public interest.

Goal 1 needs to be changed to use modern communication that increases accessibility for underrepresented Oregon residents and information exchanges to attain more equity and environmental and social justice. Goal 1 needs immediate revision to correct 5 decades of limited and exclusionary citizen input.

Furthermore, the statewide land use goals need revisions to remove terms like "minorities" and create language that reflects the true diversity of the people and cultures of Oregon.

5. *Why is changing the Goals better than merely implementing equity and climate change using rules?*

Rules can be used for interim standards. However, an updated, goals-change process provides for a broader opportunity for involvement, whether for equity or for adaptation, mitigation, and sequestration, and thus will have meaningful impact (rather than merely having planners jump through administrative hoops). Like most long-standing administrative agencies, DLCD pays attention to the "stakeholders" who are typically landowner groups and other interest groups representing developers and real estate. A new goals change process should and hopefully will reach beyond the typical stakeholders to the Oregon public and more adequately advance the public interest in climate change and equity. It has a better chance to change hearts and minds.

6. *Why interim climate mitigation standards?*

It will take considerable time to assure public participation and cause local governments and state agencies to change their plans and procedures. HB 2488 requires LCDC to adopt by rule interim standards by 2023 for **adaptation** (using the DLCD Framework 2010 risks and 2020 strategies as a basis), **mitigation** (using existing policy recommendations, executive orders and Oregon's 2050 statutory goal (ORS 261A.205)for CO2e emission reductions), **sequestration-carbon capture** standards (to be developed by the Oregon Global Warming Commission by 6/30/21) and **equity** (using the 2016 Environmental Justice Task Force [Best Practices Handbook](#) and the [Oregon Climate Equity Blueprint](#)). Given these already existing guidances, models and frameworks, one notice and public hearing on a draft rule for the **interim standards** could be deemed enough.

7. *Why not wait until OGWC publishes its sequestration standard(s)?*

The Oregon Global Warming Commission (OGWC) has no rule making power, however DLCD, which does, needs to implement OGWC's standard once they are published (by June 30, 2021). HB 2488 will give the Department 18 months to adopt the interim standards for climate and equity, however time is of the essence because of the existential threat. LCDC is structured to, and should take the lead in, adopting an interim standard based on OGWC's work.

8. *Why aren't DLCD's framework reports for adaptation adequate?*

First, neither the 2010 report nor the new 2020 report is binding. Second, while the 2010 report at least discusses risks, it does not require careful planning about responses. Third, the 2020 update draft, at best, talks about strategies, but again does not provide any mandates. Finally, because it is a state document and attempts to span many agencies the 2020 report does not come up with nearly enough specifics to make a difference.

9. *How will HB 2488 promote the work of LCDC and DLCD?*

Updating the goals for climate change and environmental and social justice is part of the Agency's prospective work plan, however, their budget has been cut. The climate change response issue has been discussed at LCDC at least since 2008 (when a Goal 20 was proposed), but no significant action has been forthcoming. DLCD has been trying to substitute small steps by simply publishing a kind of voluntary best practices as a substitute for rulemaking; voluntary measures are incapable of reducing GHG's and preparing for climate adaptation and resilience. Furthermore, the processes under ORS 197.235 and Goal 1 (Citizen Involvement) do not reflect the new communications technology and the need for equity and inclusion of broad outreach to underserved and impacted communities and

tribes. The Environmental Justice Task Force and Oregon Blueprint for Climate Equity provide updated tools for reaching the public.

10. *Why should Oregon adopt climate change standards, given the ubiquitous nature of atmospheric CO₂e and any action Oregon can take is tiny in regard to the global crisis?*

“The whole is the sum of its parts.” There are no borders atmospherically. Individual states must and are acting. Oregon has been an environmental leader, in part because of its long-standing land use program. Oregon needs to do its part by keeping its goals current. Several Oregon cities have taken action, but their impacts on adaptation, mitigation and sequestration are limited and not coordinated because of the lack of measurable criteria.

11. *Why not adopt climate change and environmental justice changes by executive order or rule making, rather than by Goal changes initiated by the state legislature?*

Ultimately the Governor’s executive order capability is limited and is not necessarily permanent. Rules can only implement legislated policies. The mitigation policy in Oregon statutes is not substantial enough and doesn’t create requirements for climate action. The legislature needs to charge LCDC to deal with climate change adaptation, mitigation, sequestration-carbon capture, and equity.

Furthermore, DEQ and EQC are developing a new program using **existing authorities** to reduce GHG emissions from several economic sectors, including: large stationary sources; transportation fuels, including gasoline and diesel, and all other liquid and gaseous fuels including natural gas. “Existing authorities” means adaptation measures or sequestration-carbon capture will not be addressed. Furthermore, the DEQ rules are not addressing how land uses impede GHG emissions reductions or, alternatively, the ability of land to sequester and store carbon.

12. *Is the current DLCD RAC work on transportation and equity sufficient?*

Current recommendations for rulemaking only address mitigation from transportation and housing. It doesn’t address natural and working lands, carbon sequestration or storage. Furthermore, questions of adaptation are expressly off limits. It has no authority over metropolitan planning areas, except for Portland Metro. It seems unlikely there will be changes or even rule revisions for the other statewide planning goals. For example, Goal 3 (Agricultural Lands), Goal 4 (Forests), Goal 5 (Natural Resource), Goal 6 (Air, Water and Land Resources Quality), Goal 16 (Estuarine Resources) and Goal 17 (Coastal Shorelands) are examples of goals that need a comprehensive update to address and mitigate climate impacts.

13. *Is this an unfunded mandate?*

No. However, sustained funding to make changes to the goals will be needed. The state involvement will be funded, first, by the Governor's \$800,000 budget item, and then, by a combination of federal and private grants as well as possible budget items in later biennia. It is not an unfunded mandate for local governments because they will be able to phase in over time the goal change responses. Further, the permit application and fee process will fund much of the needed information to meet the criteria established by the interim standards.

14. *Is another advisory committee needed?*

DLCD already has at least two standing advisory committees: Local Officials Advisory Committee (LOAC) and a Citizen Involvement Advisory Committee (CIAC). In addition, a Climate-Friendly and Equitable Communities Rules Advisory Committee has been created. The bill stipulates the creation of an advisory committee whose membership is composed of more than 50% representatives from **environmental and social justice communities and interests** to assure equity. Emphasis is also placed on adopting new digital and other interactive methods for DLCD and local residents to communicate with each other.

18. *Why should sequestration of forest or farming resources be addressed when the regulation of these resources is beyond authority of DLCD?*

The existing Goal 4 addresses Forest Lands; thus the subject is not new. Second, while Goal 4 calls for "sound management," there is no specificity as to managing for climate change considerations. HB 2488 implementation of interim climate standards is to deal with land use decisions. If harvest is not a land use, then there will be no impact. But change in the use of a farm or wood lot or effects on city trees could be sequestration concerns. Given the devastation resulting from the Labor Day fires, forests are an immediate concern. Here is an example of how the principles and criteria laid out in HB 2488 could be incorporated into [Goal 4](#) and be consistent with the DLCD's authority. (CAPS are suggested additions to the statutory language).

Goal 4 protects working forest land around the state, preserving it for commercial forestry while recognizing its value for fish and wildlife habitat, recreation, GREENHOUSE GAS REDUCTIONS, and protection of air and water quality.

The goal requires county to identify forest land, designate it as such on the comprehensive plan map, and zone it consistently with state rules. The goal defines forest land in two ways. One way is based on productivity, as measured by the U.S. Forest Service. The other is by making a judgement about whether land is suitable for other, non-commercial forest uses, such as watershed protection, fish and wildlife habitat, CARBON STORAGE AND SEQUESTRATION and recreation.

Goal 4 places development restrictions on forest lands. These restrictions seek to prevent activities that could conflict with forestry practices. Local zoning regulations prevent forest land from being divided into parcels too small to manage effectively for timber, habitat, recreation, watershed protection, CLIMATE and other purposes.

19. Because changing the goals is slow, can there be faster ways to address equity and climate change problems using the Governor's executive order (EO 20-04) and the Rulemaking Advisory Committees (RACs) at DEQ and DLCD that are currently underway?

Rules and executive orders can only operate within existing statutes. The charge to the DLCD and DEQ RAC is specifically limited to existing law. For example, even though DEQ is calling its process "cap and reduce" there is no trading, and there are no funds for mitigation of impacts on people of color or other impacted communities. Second, currently both RACs are operating under this biennium's funding. Passing a statute with guidelines and criteria will inform the rule decision-making. Third, the Oregon Global Warming Commission has no rule-making power. DLCD has that power. A legislative mandate such as that of HB 2488 will accelerate both equity and climate change responses.

20. Why isn't the DEQ's RAC for cap and reduce and its focus on transportation and housing sufficient?

This RAC raises two goals, Transportation (Goal 12) and Housing (Goal 10). The charge generally leaves out other considerations. It seems likely, ultimately, that DEQ's Green House Gas Reporting limits (e.g., greater than 25,000 tons/year) will turn out to be the tools available for cap and reduce. We must do better than that. Further, the coastal goals (16-19), the Citizen Involvement Goal (Goal 1), the planning process goal (Goal 2) the Conservation of Energy Goal (Goal 13) ultimately all need attention THROUGH THE INTEGRATION OF CLIMATE ADAPTATION AND GHG REDUCTION GOALS.