



Oregon

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**Oregon Department of Transportation
Oregon Department of Land Conservation & Development
Implementing Senate Bill 120 (2015 Legislative Session)
ORS 197.798 and Section 2, Chapter 280, Oregon Laws 2015
Report to the Oregon Legislature
September 2016**

Introduction

In 2015, the Oregon Legislature passed Senate Bill 120, which required the Department of Land Conservation and Development (DLCD) and the Oregon Department of Transportation (ODOT) to respond to the bill and issue this joint report to the interim legislative committees on transportation. This law is codified in statute at ORS 197.798.

The bill states that the Land Conservation and Development Commission shall “...*adopt rules or amend existing rules as necessary to allow a city or county to propose transportation improvements located outside of that city or county when the city or county is considering an amendment to a functional plan, comprehensive plan or land use regulation and the amendment would significantly affect a transportation facility within the city or county.*”

Further, it states that “*A city or county may use highway mobility targets established for a highway corridor by the Department of Transportation’s Oregon Highway Plan as the basis for proposing transportation improvements located outside of that city or county.*”

Background

The Transportation Planning Rules (TPR) and the Oregon Highway Plan (OHP) are linked in several transportation planning applications. The TPR is Chapter 660, Division 12 of the Oregon Administrative Rules (OAR). The TPR implements Statewide Planning Goal 12 (Transportation) by providing for comprehensively planned transportation systems. The TPR is the responsibility of the Land Conservation and Development Commission (LCDC) and DLCD, while the OHP is the responsibility of the Oregon Transportation Commission and ODOT.

One area where the OHP is strongly linked to the TPR is OAR 660-012-0060, which requires local governments to ensure that comprehensive plan amendments, zone changes, and amendments to land use regulations are consistent with the identified function, capacity and performance of the affected transportation facility. Development consistent with adopted plans is not affected by TPR 0060.

The OHP covers a number of different policy areas for the planning and management of the state highway system. The OHP Mobility Policy (Policy 1F) establishes how the state measures mobility and establishes objectives that are reasonable and consistent with the direction of the Oregon Transportation Plan (OTP) and other OHP policies. OHP mobility targets (or standards) are used to identify performance expectations for transportation system planning and are used to review plan amendments that impact the state highway system in compliance with TPR 0060.

Oregon Administrative Rules Update

Consistent with SB 120, DLCD reviewed existing rules regarding the ability of a city or county to propose transportation improvements outside its jurisdiction to mitigate significant effects on transportation facilities within the city or county that would occur due to plan or land use regulation amendments being considered by the city or county. DLCD determined that section 2 of TPR 0060 gives local governments the general authority to propose mitigation outside the jurisdiction as described in SB 120, and recommended amending this section to make the local government authority more specific. LCDC agreed with the recommendation and appointed a Rulemaking Advisory Committee to draft clarifying language. The committee included Heather Richards, City of Redmond Community Development Director; Bryan Pohl, Tillamook County Planning Director; and Michael Rock, ODOT.

At their meeting in May 2016, the Rulemaking Advisory Committee reached a consensus recommendation for the following changes to the TPR in OAR 660-012-0060(2)(e):

(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if: ~~the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.~~

(A) The provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards; and

(B) The providers of facilities being improved at other locations provide written statements of approval; and

(C) The local jurisdictions where facilities are being improved provide written statements of approval.

On July 22, 2016, LCDC held a rulemaking hearing, and adopted the proposed amendment. The amended rule became effective on August 1, 2016.

ODOT Guidance

ODOT's main actions under this legislation are to ensure that current policy and guidance language does not preclude intended action and to share this direction with staff. To that end

ODOT staff reviewed existing policy and guidance and in general found nothing in the OHP, Development Review Guidelines, or Transportation System Plan Guidelines that would preclude a city or county from proposing improvements outside of their jurisdiction, or in using the highway mobility standards as a basis for doing so.

A similar review found that current OHP policy allows alternative mobility targets be developed and implemented for a corridor, consistent with the legislation.

ODOT has shared information with key internal groups that may be affected by this law. A staff fact sheet was developed, distributed and posted to provide clarity on the legislation. Presentations on this topic were made to staff and work groups who work on planning and development review throughout ODOT.

Conclusion

ODOT reviewed existing guidance and policy to ensure consistency with ORS 197.798. This review found that the existing direction is consistent with this law. ODOT developed a new fact sheet for staff to clarify the intent behind the law and shared it with staff who work most directly on these actions.

DLCD found that existing rules were generally consistent with the intent of ORS 197.798. LCDC adopted amended rules to clarify specific city and county authority to propose transportation improvements outside their jurisdiction to mitigate a significant effect to a transportation facility due to plan amendments or changes to land use regulations being considered by the city or county.