

Secretary of State
NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Transportation, Highway Division

734

Agency and Division

Administrative Rules Chapter Number

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RULEMAKING ACTION

ADOPT:

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

AMEND:

OAR 734-051-0040, 734-051-0115, 734-051-0500, 734-051-0510, 734-051-0520, 734-051-0530, 734-051-0540 and 734-051-0560

REPEAL:

Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

Amend and Renumber: Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ORS 184.616, 184.619, 374.310, 374.312, 374.313 and 374.345

Stat. Auth.: ORS

Other Authority

ORS 374.305 through 374.345 and 374.990

Stats. Implemented: ORS

RULE SUMMARY

OAR 734-051-0115: The proposal is to change the spacing standards in Tables 2, 3 and 4 adopted by reference in OAR 734-051-0115(2). This change combines two categories, Urban/Other and Urban/UBA (Urban Business Area), into one category called Urban. The access spacing standards specified for the new Urban category are the same as those currently listed under the Urban/Other category, except for speeds less than 35 mph. For these lower speeds, the new Urban category uses the spacing standards currently listed under the Urban/UBA category. This change implements proposed amendments to the 1999 Oregon Highway Plan, which will be considered by the Oregon Transportation Commission at its August meeting. The proposal also amends OAR 734-051-0115(2) by moving a part of the existing definition of "Urban" in 734-051-0040(66) to 734-051-0115(2). This change does not establish new authority for the Regional Access Management Engineers, but simply relocates the language defining existing authority to a more appropriate section of the rule.

OAR 734-051-0040: The proposal is to amend the definitions in OAR 734-051-0040(4) of *Access Management Plan* and OAR 734-051-0040(34) of *Interchange Area Management Plan* to clarify that these are planning documents and are not highway projects. The proposal also amends the definitions of OAR 734-051-0040(66) 'Urban', OAR 734-051-0040 (31) 'Infill' and OAR 734-051-0040 (52) 'Redevelopment', to clarify the process for permitting approaches in rural areas that have certain urban characteristics.

OAR 734-051-0500 through 0540 and 0560: These proposed changes to these rules are made to correct a clerical error. OAR 734-051-0400 was renumbered to 734-051-0355 in a previous rule change adopted March 1, 2004. The proposed changes provide the correct reference.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the *Oregon Bulletin* or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

ORS 183.335(2)(b)(G) 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.

August 22, 2005

Last Day for Public Comment

Signature and Date

Brenda Trump

Printed name

* The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking or a Notice of Proposed Rulemaking Hearing accompanies this form.

Oregon Department of Transportation, Highway Division
Agency and Division

734
Administrative Rules Chapter Number

In the Matter of the Amendment of OAR 734-051-0040, 734-051-0115, 734-051-0500, 734-051-0510, 734-051-0520, 734-051-0530, 734-051-0540 and 734-051-0560 Relating to Access Management Spacing Standards and Remedies in Closure of Approaches

Statutory Authority: ORS 184.616, 184.619, 374.310, 374.312, 374.313 and 374.345

Other Authority: None

Statutes Implemented: ORS 374.305 through 374.345 and 374.990

Need for the Rule(s): OAR 734-051-0115: The proposal is to change the spacing standards in Tables 2, 3 and 4 adopted by reference in OAR 734-051-0115(2). This change combines two categories, Urban/Other and Urban/UBA (Urban Business Area), into one category called Urban. The access spacing standards specified for the new Urban category are the same as those currently listed under the Urban/Other category, except for speeds less than 35 mph. For these lower speeds, the new Urban category uses the spacing standards currently listed under the Urban/UBA category. This change implements proposed amendments to the 1999 Oregon Highway Plan, which will be considered by the Oregon Transportation Commission at its August meeting. The proposal also amends OAR 734-051-0115(2) by moving a part of the existing definition of "Urban" in 734-051-0040(66) to 734-051-0115(2). This change does not establish new authority for the Regional Access Management Engineers, but simply relocates the language defining existing authority to a more appropriate section of the rule.

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OAR 734-051-0500 through 0540 and 0560: These proposed changes to these rules are made to correct a clerical error. OAR 734-051-0400 was renumbered to 734-051-0355 in a previous rule change adopted March 1, 2004. The proposed changes provide the correct reference.

Documents Relied Upon: The 1999 Oregon Highway Plan, which is available on line at:
<http://www.oregon.gov/ODOT/TD/TP/orhwyplan.shtml>

The Staff Report and the Staff Report Attachments Oregon Highway Plan (OHP) amendments, which are available on line at
<http://www.oregon.gov/ODOT/TD/TP/ohpAmend.shtml>

Fiscal and Economic Impact:

- ODOT is the only state agency for which the rule changes will have a fiscal impact
- All Oregon cities and counties that have sections of highway inside a Urban Growth Boundary (UGB) or Unincorporated Community boundary with posted speeds less than or equal to 35 mph may experience fiscal impacts.
- Large businesses, some of which are represented by the Retail Task Force, small businesses and residences on property with highway frontage on the subject sections of highway may experience fiscal impacts.
- Local traffic, through travelers and freight users of the highway may experience fiscal impacts.

Following is a description of how the proposed change in access spacing standards may contribute to possible positive and negative fiscal or economic impacts to these groups compared to what would have been the case without the changes. It is not possible to predict how many more requests for access permits will actually be processed or how many new approaches to the highway will be approved as a result the changes. Given available information, it is not possible to estimate costs in dollar amounts. Although the fiscal impact of the proposed changes on each group is difficult to predict, it is possible to consider potential fiscal impacts in general terms.

The rule changes decrease the spacing between driveways on sections of Statewide, Regional and District Highways inside an Urban Growth Boundary or in an Urban Unincorporated Community boundary with posted speed of less than or equal to 35 miles per hour. The lower standards currently apply on these sections only under the provisions of a UBA designation management plan. Eliminating the UBA planning requirements will result in significantly more sections of urban highway where the lower spacing and mobility standards apply. On Statewide Highways the minimum distance between driveways would be decreased from 770 to 720 feet, or by 50 feet. It means allowing a maximum of 7.3 driveways per mile instead of 6.9 driveways, an increase of 5.5 percent. On

District Highways the distance would decrease from 400 to 350 feet, or by 50 feet. It means allowing a maximum of 15.1 driveways per mile, instead of 13.2 driveways, an increase of 12.6 percent. On Regional Highways the access spacing distance would decrease from 600 to 425 feet, or by 175 feet. It means allowing a maximum of 12.4 driveways per mile, instead of 8.8 driveways, an increase of 29.1 percent. In all cases, the maximum driveways per mile may be greater where deviations are approved. The amount of change is least on Statewide Highways and greatest on Regional Highways. The changes permit the access spacing on certain sections of Regional Highways to be reduced to within 25 feet of the access spacing currently permitted on District Highways. Many District Highways function as local arterials and collectors and have little regional function, which suggest that the change to Regional Highway access standards will result in a loss of regional mobility that is difficult to predict, evaluate or estimate.

Observation and experience indicate that many of the highway segments affected by the proposed changes already have numerous existing driveways and/or block spacing patterns that do not conform to existing access spacing standards. The proposed changes may reduce the number of existing and future highway approaches that deviate from access spacing standards. This could potentially reduce costs related to processing deviations for ODOT and for owners of large and small businesses, and residences on property with highway frontage. Development review processes and highway improvement projects will continue to provide an opportunity to consolidate and close some nonconforming approaches and employ other access management techniques to move these highway segments in the direction of meeting the proposed access management spacing standards and other OHP objectives.

The Retail Task Force initiated the proposed changes, which are expected to benefit their clients by allowing increased access to the state highways. The view of the Task Force is that closer access spacing will facilitate access to retail development and contribute to the economic viability of small businesses. It is not possible to quantify the actual benefit to large or small businesses based on available information.

Decreased spacing between highway approaches contributes to increased congestion which is why the OHP mobility standards are being revised in conjunction with the changes proposed in these rules. Over time congestion increases transportation costs for all users in terms of decreased travel times, increased accidents, increased fuel consumption and air pollution, and shortened functional design life of the transportation facility. These costs incur incrementally statewide, such that it is not possible to quantify the costs that may incur to particular user groups. When these potential costs are balanced with the expected benefits from increased highway access for businesses, the conclusion, based on available information, is that applying the lower access spacing standards to certain urban highway segments will not unreasonably decrease the speed and mobility of through traffic, including freight.

The volume to capacity ratio (v/c) ratio in the OHP is used to evaluate mobility and congestion on a highway segment for transportation system planning (TSP), plan amendments and during development review. If a developer requests access to a highway that adversely impacts the v/c ratio on the highway segment, ODOT has authority to require the developer to provide mitigation in the form of highway improvements. By increasing the v/c ratio, the developer will benefit directly because it will cost less for mitigation to address the associated increase in traffic volume. To some degree, this will shift a greater share of the cost of roadway projects necessary to address congestion to the State. The impacts to the highway system generally will be indirect and incremental over a period of time. The rate at which excess capacity, if any, is consumed depends on the rate of traffic growth, which varies with time across the state.

Administrative Rule Advisory Committee consulted?: No

If not, why?: Proposed changes to the access spacing standards in the rules have been coordinated with amendments to the OHP Policy 1B, regarding UBA designation and spacing standards. The draft staff report was sent by email to every city, county and MPO planning department, DLCD, and three standing advisory committees. The recommendations for the changes came out of discussion with stakeholders including the Retail Task Force, the freight representatives on the FRAP (freight route analysis project) committee, and to a lesser extent, discussion in the highway segment management plan Technical Advisory Committee.

ODOT determined that an advisory committee is not needed because many of the groups and interests that would make up an advisory committee have already participated in developing the policy changes to the OHP.

Proposed changes to OAR 734-051-0040 simply clarify terms used in the process of permitting approaches in rural areas that have certain urban characteristics under provisions of OAR 734-051-0080. Proposed changes to OAR 734-051-0560 corrects an administrative error and does not change the policy or intent of the rule. The department determined an advisory committee was not needed to draft these changes.

Signature and Date

Brenda Trump

Printed name