



Oregon

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RULEMAKING NOTICE

January 3, 2005

TO: Interested Persons

FROM: Robert Cortright, Transportation Planning Coordinator

SUBJECT: **Proposed Amendments to the Transportation Planning Rule (TPR)**

The Land Conservation and Development Commission is considering amendments to the Transportation Planning Rule (TPR) (OAR Chapter 660, Division 012). The proposed amendments revise portions of the rule that relate to local government consideration of plan amendments and zone changes as they affect transportation facilities. The proposed amendments and the process for public review are summarized below.

Summary of Proposed Amendments

The proposed amendments revise Section 0060 of the rule (and related definitions) to respond to the Court of Appeals decision in the Jaqua v. City of Springfield case. Major features of the proposed amendments are outlined below:

- Section 0060(1)-(3) have been reorganized to provide a more logical presentation of the rule requirements.
- Overall, the proposed amendments respond to the Jaqua decision by making it clear that decisions about whether a plan amendment significantly affects a planned transportation facility are assessed at the end of the relevant planning period. This would change the interpretation in the Jaqua case that concludes that a significant effect occurs if there is a failure to meet performance standards at any point during the planning period. (See Section 0060(1))
- Section 0060(2) provides a list of the actions that local governments may take to put land use and transportation “in balance” when a plan amendment results in a significant effect. Proposed language is largely unchanged from the existing rule. A provision would be added to allow a significant effect to be remedied by adoption of conditions of approval – see 0060(2)(e).
- Section 0060(4) provides a list of planned transportation facilities, improvements and services that local governments may rely upon for purposes of determining whether or not planned facilities are adequate to meet performance standards at the end of the planning period. Basically, the proposed rule would require some level of funding commitment for planned improvements or a finding from the relevant transportation facility provider that the facility is reasonably likely to be constructed during the planning period.

- In recognition of the special role and importance of interchanges, decisions about whether plan amendments within ½ mile of interstate freeway interchanges have a “significant effect” are to be based on facilities and improvements where there is some level of funding commitment in place. (See Section 0060(4)(b))
- Section 0060(3) would add new provisions that allow local governments to approve plan amendments where transportation facilities are currently exceeding performance standards and where planned facilities will not meet performance standards at the end of the planning period. Such amendments may be approved where local governments and ODOT (where a state highway is affected) agree that development will include measures that mitigate impacts of the proposed development and make progress in the direction of achieving compliance with adopted performance standards.

Rulemaking Schedule

- January 18 Deadline for written comments for the LCDC packet for the February 4 meeting
(The Commission will also accept written testimony at the public hearing)
- January 19 Joint OTC-LCDC Subcommittee Meeting (Salem)
1-5 pm, ODOT Human Resources Center, 2775 19th Street SE
- February 4 LCDC public hearing on proposed rule amendments (Salem)
Agriculture Building Hearing Room. 8:30 am
- March 1 Deadline for written comments for LCDC packet for March 16 meeting
(The Commission will also accept written testimony at the public hearing)
- March 16 LCDC public hearing/ possible adoption of rule amendments (Salem)
Agriculture Building Hearing Room. 1:30 pm

Further Information

To obtain a copy of the draft proposed rule amendments, statements of needs and fiscal impact, or to be placed on a mailing list, contact Shelia Preston at 503.373.0050 x222, or email shelia.preston@state.or.us. Interested persons may provide oral or written comments at the Commission’s February and March public hearings. (LCDC prefers written comments.) Written comments should be addressed to the Chair of the Land Conservation and Development Commission, care of Shelia Preston, at the department’s address provided above. Additional information about the rulemaking process, including background memos and other information are posted on the Department’s website: www.lcd.state.or.us. Click the link for “Transportation Planning”. Questions about the proposed rule amendments can be directed to me at 503.373.0050 x241 or via email at bob.cortright@state.or.us.