



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

FAX (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

August 30, 2005

TO: TPR Work Group

FROM: Bob Cortright, Transportation Planning Coordinator

SUBJECT: MINOR AND HOUSEKEEPING AMENDMENTS

This memo outlines a three minor and several housekeeping amendments to the TPR that we believe are needed. We propose to include these as part of the package of rule amendments that we forward to LCDC for its consideration later this fall. While these changes are not formally part of the Work Group's formal scope, we are providing them to you for your review to give you an opportunity to ask questions and to advise us whether any of these deserve more careful consideration.

The proposed amendments are summarized in the table below. **Minor changes** are ones we expect are non-controversial and generally amend the rule to reflect some other policy review done by the Commission or Department. **Housekeeping changes** are language changes to correct errors or conform to other goal or rule amendments. A more detailed explanation of each of the proposed changes and the text of the proposed amendments is included below.

Proposed Minor and Housekeeping Amendments		
Rule Section	Summary	Explanation
Minor Amendments		
0025(3)	Revises the 3-year deadline for completion of refinement plans	Directed by LCDC from Metro RTP Review 2001
0045(7)	In (7) Add "safe harbor" for 28' local streets with parking on both sides	Implements recommendation of Neighborhood Streets Work Group
0065(5)(6)	Delete provisions that apply to new roads in "urban fringe areas" that apply before TSP adoption	Not needed. County TSPs now in place for 28 of 36 counties
Housekeeping Changes		
005(16)	Definition of "pedestrian plaza"	Corrects typographic error
0020	Change term "level of service" to "performance standards"	Conforms to other changes in use of these terms
0030(3)	Revise guidance on determination of transportation needs to be consistent with Goal 14 amendments	Conforms TPR to recent Goal 14 amendments
0035(10)(12)	Revise cross-references among subsections	Corrects error in rule referencing
0045(2)(3)	Change term "level of service" to "planned performance standard"	Conforms to other changes in use of these terms
0055(6)	Eligibility for exemptions to requirement to prepare a TSP	Correct improper rule filing

Minor Changes

0025(3) Revise the 3-year deadline for completion of refinement plans

Explanation

The requirement that refinement plans be completed within 3-years of TSP adoption was set included in the TPR in 1991. The requirement was intended to assure that major transportation system decisions were made in a timely fashion to support land use planning. The Metro RTP, reviewed by LCDC in 2001, identified a need for 15-18 separate refinement plans; most of which could not reasonably be completed within the three-year time period. In the acknowledgment review of the Metro RTP, the Commission agreed that changes to this portion of the TPR were warranted to allow local governments' additional time to complete refinement plans. The proposed amendments replace the 3-year deadline with a requirement that the TSP set a completion date for refinement plans prior to the jurisdiction's next periodic review.

Proposed Amendment

"(3) A local government or MPO may defer decisions regarding function, general location and mode of a refinement plan if findings are adopted ~~which that~~:
(a) Identify the transportation need for which decisions regarding function, general location or mode are being deferred;
(b) Demonstrate why information required to make final determinations regarding function, general location, or mode cannot reasonably be made available within the time allowed for preparation of the TSP;
(c) Explain how deferral does not invalidate the assumptions upon which the TSP is based or preclude implementation of the remainder of the TSP;
(d) Describe the nature of the findings which will be needed to resolve issues deferred to a refinement plan; and
(e) Set a deadline for adoption of a refinement plan ~~demonstrate that the refinement effort will be completed within three years or~~ prior to initiation of the periodic review following adoption of the TSP."

0045(7) Add “safe harbor” for 28' streets in residential areas

Explanation

Rule provisions requiring local governments to reduce excessive street improvement requirements for local streets were adopted in 1995. This section of the rule applies to “local” streets as provided in TPR Section 0020(2)(b) – which includes streets that serve primarily local access and circulation functions. In 2000, the Department in consultation with a group of stakeholders produced the Neighborhood Street Design Guidelines (<http://www.oregon.gov/LCD/docs/publications/neighstreet.pdf>). For local streets in most low and moderate density residential areas – the situation most affected by the rule – the guidelines recommend a 28' wide street with parking on both sides as meeting the intent and requirements of the rule. The proposed amendments would clarify the rule by making adoption of the 28' standard a safe harbor in such situations.

Proposed Amendment

(7) Local governments shall establish standards for local streets and accessways that minimize pavement width and total right-of-way consistent with the operational needs of the facility. The intent of this requirement is that local governments consider and reduce excessive standards for local streets and accessways in order to reduce the cost of construction, provide for more efficient use of urban land, provide for emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodate convenient pedestrian and bicycle circulation. Notwithstanding subsection (1) or (3) of this section, local street standards adopted to meet this requirement need not be adopted as land use regulations. Local ordinances that allow outright 28' streets (curb-to-curb) with parking on both sides of the street in low and medium density residential areas (i.e. 10 or fewer dwelling units per acre) are considered to comply with the requirements of this section.

0065(5) and (6) Delete provisions for additional consideration for certain improvements in urban fringe areas that apply prior to TSP adoption

Explanation

These rule provisions were adopted in 1995 and apply to approval of new roads and road realignments in urban fringe areas prior to county adoption of TSPs. The rule was intended primarily to deal with impact of such roads at the edge of larger urban areas. At this time, 28 of 36 counties have acknowledged TSPs. (The eight outstanding are: Clatsop, Lincoln, Tillamook, Crook, Jefferson, Wasco, Baker and Malheur.) Proposed amendments would delete these provisions.

Proposed Amendment

"(5) For transportation uses or improvements listed in subsection (3)(d) to (g) and (o) of this rule within an exclusive farm use (EFU) or forest zone, a jurisdiction shall, in addition to demonstrating compliance with the requirements of ORS 215.296:

(a) Identify reasonable build design alternatives, such as alternative alignments, that are safe and can be constructed at a reasonable cost, not considering raw land costs, with available technology. ~~Until adoption of a local TSP pursuant to the requirements of OAR 660-012-0035, the jurisdiction shall consider design and operations alternatives within the project area that would not result in a substantial reduction in peak hour travel time for projects in the urban fringe that would significantly reduce peak hour travel time. A determination that a project will significantly reduce peak hour travel time is based on OAR 660-012-0035(10).~~ The jurisdiction need not consider alternatives that are inconsistent with applicable standards or not approved by a registered professional engineer;

~~(6) Notwithstanding any other provision of this division, if a jurisdiction has not met the deadline for TSP adoption set forth in OAR 660-012-0055, or any~~

~~extension thereof, a transportation improvement that is listed in section (5) of this rule and that will significantly reduce peak hour travel time as provided in OAR 660-0120-035(10) may be allowed in the urban fringe only if the jurisdiction applies either:~~

~~(a) The criteria applicable to a "reasons" exception provided in Goal 2 and OAR 660, Division 4; or~~

~~(b) The evaluation and selection criteria set forth in OAR 660-012-0035.~~

Housekeeping Changes

0005(16) Definition of Pedestrian Plaza

Explanation

The proposed change would correct a typographical error by eliminating repeated language.

Proposed Amendment

(16) "Pedestrian plaza" means a small semi-enclosed area usually adjoining a sidewalk or a transit stop which provides a place for pedestrians to sit, stand or rest. They are usually paved with concrete, pavers, bricks or similar material and include seating, pedestrian scale lighting and similar pedestrian improvements. Low walls or planters and landscaping are usually provided to create a semi-enclosed space and to buffer and separate the plaza from adjoining parking lots and vehicle maneuvering areas. Plazas are generally located at a transit stop, building entrance or an intersection and connect directly to adjacent sidewalks, walkways, transit stops and buildings ~~entrance or an intersection and connect directly to adjacent sidewalks, walkways, transit stops and building~~. A plaza including 150-250 square feet would be considered "small."

0020(3) Change term "level of service" to "performance standard"

Explanation

1998 TPR to Section 0060 changed substituted the more general term "performance standard" for "level of service" – which is a particular type of performance standard. The change is intended to allow plans to establish different types of performance standards, including level of service as well as other measures, such as the volume to capacity (V/C) standards in the Oregon Highway Plan.

Proposed Amendment

0020(3)(b) " A system of planned transportation facilities, services and major improvements. The system shall include a description of the type or functional classification of planned facilities and services and their planned capacities and ~~levels of service~~ performance standards; "

0030(3) Revise guidance on determination of transportation needs to be consistent with recent Goal 14 amendments

Explanation

Section 0030(3) provides guidance on how local governments are to identify transportation needs within urban areas. In April 2005, LCDC adopted amendments to Goal 14 that delete the so-called “conversion factors” from Goal 14. The proposed rule amendments would modify the reference included in Section 0030(3) so that it is consistent with this change to Goal 14.

Proposed Amendment

"(3) Within urban growth boundaries, the determination of local and regional transportation needs shall be based upon:
(a) Population and employment forecasts and distributions which are consistent with the acknowledged comprehensive plan, including those policies which implement Goal 14 ~~, including Goal 14's requirement to encourage urban development on urban lands prior to conversion of urbanizable lands.~~ Forecasts and distributions shall be for 20 years and, if desired, for longer periods;
(b) Measures adopted pursuant to OAR 660-012-0045 to encourage reduced reliance on the automobile."

0035(10)(12) Correct error in cross-reference between subsections

Explanation

Section 0035(10)-(12) describe additional requirements for planning certain road improvements on rural lands in urban fringe areas. (Lands within 5 miles of metropolitan areas and 2 miles of urban areas of 25,000 or more.) Each of the three subsections includes cross-references to the other subsections. Renumbering of the subsections has resulted in an error in the cross-referencing. The proposed change would correct this error.

Proposed Amendment

(10) Transportation uses or improvements listed in OAR 660-012-0065(3)(d) to (g) and (o) and located in an urban fringe may be included in a TSP only if the improvement project identified in the Transportation System Plan as described in section ~~(11)~~ **(12)** of this rule, will not significantly reduce peak hour travel time for the route as determined pursuant to section ~~(10)~~ **(11)** of this rule, or the jurisdiction determines that the following alternatives can not reasonably satisfy the purpose of the improvement project:

(a) Improvements to transportation facilities and services within the urban growth boundary;

(b) Transportation system management measures that do not significantly increase capacity; or

(c) Transportation demand management measures. The jurisdiction needs only to consider alternatives that are safe and effective, consistent with applicable standards and that can be implemented at a reasonable cost using available technology.

(11) An improvement project significantly reduces peak hour travel time when, based on recent data, the time to travel the route is reduced more than 15% during weekday peak hour conditions over the length of the route located within the urban fringe. For purposes of measuring travel time, a route shall be identified by the predominant traffic flows in the project area.

(12) A "transportation improvement project" described in section ~~(9)~~ **(10)** of this rule:

(a) Is intended to solve all of the reasonably foreseeable transportation problems within a general geographic location, within the planning period; and

(b) Has utility as an independent transportation project.

0045(2)(3) Change term "level of service" to "performance standard"

Explanation

1998 TPR to Section 0060 changed substituted the more general term "performance standard" for "level of service" – which is a particular type of performance standard. The change is intended to allow plans to establish different types of performance standards, including level of service as well as other measures, such as the volume to capacity (V/C) standards in the Oregon Highway Plan.

Proposed Amendment

(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors and sites for their identified functions. Such regulations shall include:

(g) Regulations assuring that amendments to land use designations, densities, and design standards are consistent with the functions, capacities and levels of service performance standards of facilities identified in the TSP.

"(3) The following transportation improvements are consistent with goals 3, 4, 11, and 14 subject to the requirements of this rule:

....

(o) Transportation facilities, services and improvements other than those listed in this rule that serve local travel needs. The travel capacity and levels of service performance standards of facilities and improvements serving local travel needs shall be limited to that necessary to support rural land uses identified in the acknowledged comprehensive plan or to provide adequate emergency access."

0055(6) Restore correct rule language regarding eligibility for TSP exemptions

Explanation

Section (6) allows for exemptions from the requirement to prepare a TSP for smaller communities (under 10,000 population) and smaller counties or portions of counties. Proposed amendments restore rule language that was inadvertently changed in the Department's filing of 2004 amendments to the TPR.

Proposed Amendment

(6) The director may grant a whole or partial exemption from the requirements of this division to cities under ~~2,500~~ 10,000 population outside MPO areas, and counties under 25,000 population, and for areas within a county within an urban growth boundary that contains a population less than 10,000. Eligible jurisdictions may, ~~within five years following the adoption of this rule or at subsequent periodic reviews,~~ request that the director approve an exemption from all or part of the requirements in this division, ~~until the jurisdiction's next periodic review:~~ Exemptions shall be for a period determined by the Director or until the jurisdiction's next periodic review, whichever is shorter.

(a) The director's decision to approve an exemption shall be based upon the following factors:

(A) Whether the existing and committed transportation system is generally adequate to meet likely transportation needs;

(B) Whether the new development or population growth is anticipated in the planning area over the next five years;

(C) Whether major new transportation facilities are proposed ~~which~~ that would affect the planning areas;

(D) Whether deferral of planning requirements would conflict with accommodating state or regional transportation needs; and

(E) Consultation with the Oregon Department of Transportation on the need for transportation planning in the area, including measures needed to protect existing transportation facilities.