

Oregon Department of Transportation  PROCEDURE (Draft Date: 6/20/06)	NUMBER PLA 01	SUPERSEDES NEW
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	REFERENCE OAR 731-015-0065 (1)	
SUBJECT DRAFT ODOT TRANSPORTATION FACILITY PLAN ADOPTION PROCESS	APPROVED SIGNATURE	

PURPOSE

The purpose of this procedure is to establish the process and requirements that the Oregon Department of Transportation (Department) shall use in the adoption of transportation facility plans. The policy lays out the steps to seek adoption of a facility plan by the Oregon Transportation Commission (OTC). This procedure is designed to improve coordination, better define roles and responsibilities, and clarify work components completed by the Region Planners and local governments. Attachment A defines facility plans, provides additional information on the facility plan adoption process and lists acronyms. Attachment B is a diagram of procedure steps. This procedure does not address the specific development of facility plans (which is typically done by the local government) including technical and environmental issues, input from stakeholders and coordination with affected agencies.

BACKGROUND

The purpose of facility plans is to identify the function and existing and future needs for using the transportation facility. Facility plans also include plans for managing the existing transportation facilities and plans for improving the facilities so that the facilities continue to operate at acceptable levels for 20 years. Most of the facility plans affecting state facilities are developed by Department Region planners in conjunction with local governments. There are numerous types of facility plans and the typical ones include: corridor plans, refinement plans, specific area refinement plans, access management plans, access management plans for interchanges, interchange area management plans, expressway management plans, scenic byway plans, intersection plans, and safety corridor plans. (See *Attachment A – Facility Plans.*)

The Commission requested to have its actions and approvals on facility plans and the process for adoption be delineated by staff. This procedure is designed to meet the Commission's need for a process that clearly outlines the facility plan adoption process, including indicating roles and responsibilities for Department staff.

PRIOR TO OTC ADOPTION PROCESS

The preferred process for facility plan adoption is to have local government approval or adoption of a facility plan before it goes to the OTC. Therefore, while working with local governments on development of a facility plan, the local government needs to understand the established process for the OTC's adoption of the plan. An intergovernmental agreement (IGA) or memorandum of understanding (MOU) may help guide development of the plan. (See *Attachment A – IGAs and MOUs.*)

Prior to adoption by local government, some facility plans may need to go to the OTC for review and guidance on such issues as the proposed design alternatives being considered and community impacts and tradeoffs. The Region Planning Manager and Region Manager need to work in concert with the Deputy Director and the Chief of Staff to determine whether a facility plan issue needs to go before the OTC for review and guidance. This "OTC check-in" shall be handled either as a one-on-one discussion with each of the commissioners or placed on the OTC agenda for informational purposes.

Prior to submitting the facility plan for OTC approval, the following steps shall occur:

- Development of a draft plan in collaboration with jurisdiction(s).
- Review by appropriate Department staff and DOJ.
- Facility plans affecting highways must be approved by the State Engineer or delegate if they include planned designs for the facility, and the Access Management Engineer and District Manager or delegate if they include anything about access management and/or maintenance. http://intranet.odot.state.or.us/ssb/bss/del/d_sub-04.pdf
- Depending on the complexity and/or controversial nature of the facility plan, prior discussions with OTC may be appropriate (as mentioned above).
- Fulfillment of the required public review process (*See Attachment A – Facility Plan Development.*) recognizing that the primary stakeholder involvement shall have occurred during the development of the draft plan.
- Planning Business Line Team (PBLT) coordination. PBLT reviews the draft plan and listens to the proposed OTC presentation to provide comments and support for bringing the plan to the OTC.

OTC ADOPTION PROCEDURE

The adoption of all facility plans affecting the OHP shall be processed as amendments to the OHP. When a facility plan goes before the OTC for adoption there are two primary amendments to the OHP. The first are those facility plans that amend and implement the OHP. This occurs primarily when a facility plan adoption leads to a designation change (highway segment designations, freight routes, scenic byways, and functional class) or new proposed alignments. The second type of amendment is for facility plans that are developed to implement the OHP that do not change policy, make or change a designation, or include new alignment.

Location on OTC Agenda

The recommendation whether the facility plan should be a regular agenda item or on the consent calendar shall be made by Region and Transportation Development Division (TDD) staff working together with PBLT on a case-by-case basis. This determination will typically occur during the PBLT meeting described in the Prior to OTC Adoption Process section above.

This determination depends on several issues including complexity of the plan, level of controversy, multiple actions associated with the facility plan (change in functional class or a jurisdictional transfer), number of times the facility plan has been to the OTC and whether there are parties who wish to testify.

Agenda huddle by executive staff must be the forum for the final decision for where the item will be placed on the agenda. It should be noted that the facility plan packet that goes to the OTC remains the same, whether it is located on the regular agenda or on the consent calendar.

Submittal to the OTC

The appropriate Region staff person shall prepare the cover memo, staff report and other attachments in accordance with the Highway Finance Office (HFO) requirements for Commission packets. The following needs to be addressed and included within the packet:

Cover Memo

The cover memo must contain a summary of the issues, requested action and motion language. The summary of issues needs to be clear about what the OTC is adopting and how it affects the state and local Transportation System Plans (TSP). (*See Attachment A - Relationship to the OTP, SAC and TPR.*) The requested action is adoption of the facility plan and any amendment of the OHP or any other modal and/or topic plan as necessary.

When developing the motion language, care needs to be taken that the Department does not exceed its authority when adopting a facility plan. The motion language must be based on the requested action section of the cover memo. The motion includes adoption of findings and the components of the plan for which the Department has responsibility. The findings must specifically state how the existing local plan, policy, and code provisions and the facility plan are consistent.

Staff Report

The staff report, which is typically Attachment A of the Commission packet, must briefly identify:

- A description of the public involvement process including notification (if applicable);

- the components of the plan for which the local governments are responsible for;
- the components of the plan for which the Department is responsible for;
- how the facility plan implements the subject modal system plan;
- if necessary, what policies, standards, actions, appendices, maps and other exhibits are being amended with this action;
- a summary of the draft findings that are proposed in support of the adoption; and
- a Requested Action that frames the proposed motion language that:
 - summarizes what is proposed to be adopted;
 - that the OTC is accepting and agreeing to the conclusions and decisions of the plan that will guide future Department and local government's actions; and
 - language to the effect that the findings in the packet are adopted as part of the OTC action.

Findings

The findings are typically Attachment B of the Commission packet. The findings adopted by the OTC must highlight those actions for which it has the authority to approve, such as issues related to highway operations, mobility standards, access management, etc. (See *Attachment A – Findings*.) Each facility plan must include a section that clearly identifies the actions in the plan for which the Department is responsible and those for which a local government or some other party is responsible. The OTC packet for the facility plan must make findings to address the following State Agency Coordination Program (SAC) (OAR 731-15-065) findings:

- Compatibility with acknowledged comprehensive plans of affected counties and cities
- Compatibility with Statewide Planning Goals which specifically apply; see OAR 660-030-0065(3) (d); and
- Compliance with all provisions of other statewide planning goals that can be clearly defined if local plan does not include general or specific provisions affected by the facility plan

In addition, the findings, must address the following:

- Compatibility with affected modal plans and the OTP
- Adequate coordination with local governments during plan preparation
- Adequate public involvement during plan preparation
- Statement that the Department is not exceeding its authority
- Compatibility with Metropolitan Planning Organization (MPO) Regional Transportation Plans

- Consistency with the Highway Design Manual (HDM) if the facility plan includes planned designs

The Facility Plan

The plan itself is typically Attachment C of the Commission packet.

The Steps

The steps listed below outline the facility plan adoption process before the OTC. The actual development of the facility plan and the outreach process to stakeholders and the local jurisdiction(s) needs to have occurred prior to beginning the OTC approval process. (See Attachment A – Facility Plan Development.) The actions below are also shown in a diagram format (See Attachment B.)

<u>RESPONSIBILITY</u>	<u>STEP</u>	<u>ACTION *</u>
Region Planning Manager	1	Inform PBLT of OTC agenda item at least three months prior to anticipated OTC meeting. Discuss with PBLT Team Leader and together determine if a presentation before PBLT is needed and decide on the adoption process. A draft of the proposed OTC action (motion) needs to be included. (This step shall occur before the local government approves the facility plan.) DOJ review of the staff report facts and findings required.
Region Planning Manager	2	PBLT and TDD staff help determine level of OTC participation, location on agenda, and clarification of requested action. (If the facility plan includes a functional classification change, it needs to follow that procedure as well.)
Region Planning Manager	3	Comply with public review and public notice requirements. The OTC hearing for the facility plan must occur after the 45-day review period which is required by federal regulations for amendments to the plan. The 30-day State Agency Coordination review requirement can run concurrently. The notice establishing the start date for both review periods shall include key stakeholders such as DLCD. The plan findings must be included as part of the SAC notice requirements to address plan consistency expectations. The scheduling for the OTC meeting can occur earlier, which includes providing copies of the recommended plan to stakeholders. (See Attachment A – Outreach.) Follow the Highway Finance Office (HFO) submittal

schedule for getting on the OTC agenda –

<http://intranet.odot.state.or.us/highwaybudget/Program%20and%20Funding%20Svcs/index.htm>

Provide packets to HFO Coordinator for review at least one month prior to OTC meeting.

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| | 4 | Determine how many copies of facility plan packet are needed to complete adoption process and produce copies if necessary. Packet includes cover memo, staff report, plan document, and SAC findings. (See OTC Adoption Procedure section.) The staff report must include appropriate motion language. The adoption language may differ if amending the OHP vs. implementing the OHP. |
| Region Planning Manager | 5 | Present locally adopted or approved facility plan at OTC meeting. OTC adopts facility plan as an amendment to a modal plan. |
| Region Planner | 6 | If the plan has been revised during the adoption process, provide copies of final facility plan to all affected agencies, Department of Land Conservation and Development (DLCD), and TDD. |
| Region Planner | 7 | Work with OHP Plan Manager on updating the OHP registry of amendments and providing access to the facility plan. <i>(See After OTC Adoption Process Section.)</i>

If facility plan involves other modes, then work with other Modal Plan Managers to coordinate access of the adopted facility plan for individuals that would like to read or have a copy of the plan. |

* There are multiple steps in this process. This procedure focuses only on the Department's facility planning adoption process.

AFTER OTC ADOPTION PROCESS

A significant change to an adopted facility plan requires an action by the OTC. It may be appropriate for the PBLT to determine if the amendment is significant enough to require OTC action.

All amendments to the OHP are listed in the registry of amendments on the Department's webpage by the OHP Plan Manager which helps the Department maintain a more accurate and accessible database of these facility plans. A more specific process must be developed to ensure that the website database is kept current and that people know where to go to

access these facility plans.

ATTACHMENT A

Facility Plans

A facility plan may address issues for one transportation mode, such as pipeline, aviation, rail, or bike/ped; or it may address issues for multiple modes, such as, a highway corridor plan, a downtown plan, or Special Transportation Area (STA) management plan that include components for access management, public transit, traffic safety, and/or bike/ped improvements. Facility plans consider specific geographic issues and affect the application of specific Statewide Planning Goals and, therefore, contain land use decisions.

The State Agency Coordination Rule (OAR 731-015-0015) defines “*facility plan*” in a similar light, “*a plan for a transportation facility such as a highway corridor or airport master plan.*”

Statewide Planning Goal 2 also provides guidance as to what any plan shall include, such as:

- A. An adequate factual basis for the plan,
- B. Inventories and other forms of data as needed to support the policies of the plan,
- C. Applicable statewide planning goals, and
- D. Elements that establish policies and implementation measures that address any special needs or desires of the people in the area and specify time periods for implementation of the plan.

With respect to highways, there are numerous types of facility plans and the typical ones include: corridor plans, refinement plans, specific area refinement plans, access management plans, access management plans for interchanges, interchange area management plans, expressway management plans, scenic byway plans, intersection plans, and safety corridor plans.

As defined in OAR 734-051-0010, an access management plan is a plan for a designated section of highway that identifies the location and type of approaches and necessary improvements to the state highway or local roads and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards. An access management plan for an interchange is an access management plan developed to manage the influence area of an interchange. An access management strategy is a project delivery strategy that identifies the location and type of approaches and other necessary improvements to the highway and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards

This procedure shall be followed when highway segment designations require a management plan. The August 2005 revisions to the OHP include Policy 1.B revisions and outline when highway segment designations and/or management plans are required.

Access management strategies, conditions reports, and environmental documents are not facility plans. Local Transportation System Plans (TSPs) are also not Department facility

plans and are not adopted by the OTC. While TSPs may address state transportation facilities, they do so only in the context of guidance, policies, and standards provided through the OHP and other modal plans in light of a local government’s vision and direction. The Transportation Planning Rule (TPR) requires that Department projects be consistent with the local TSPs and, conversely, local TSPs must be consistent with all adopted elements of the state TSP.

IGAs and MOUs

The Department and the local government may enter into an IGA or MOU at the commencement of the facility plan process that describes the anticipated planning and adoption process, outlines issues to be addressed, and serves as a statement of good faith to work through the process to a mutually agreeable conclusion. The purpose of the agreement is to establish an understanding and not to commit either agency to a predetermined outcome of facility plan adoption. The agreement should include a schedule for Department and local government implementation. The agreement, addressing general processes and explanations, is not a land use action. Local jurisdictions may choose to adopt the facility plan as an amendment to their TSP when the facility plan is complete, or they may choose to defer adoption until their next scheduled TSP or RTP update. While the agreement is not mandatory, it is useful to clarify Department and local government expectations. The Department Region Planner leading the facility plan process should determine whether an agreement will increase the effectiveness of the process before investing the time and resources to enter into one.

Facility Plan Development

The table below identifies the major steps associated with the required public review process and the coordination with the Department that needs to take place prior to the OTC adoption process.

STEP	ACTION
1	Develop facility plan draft work scope. Department of Justice (DOJ) review required.
2	Prepare draft facility plan. Provide copy to TDD for comments if TDD indicates interest. DOJ review required.
3	Submit request to be on Planning Commission and/or City Council agenda and notify affected agencies and stakeholders.
4	Hold the public hearing at local level and adopt the facility plan. Local governments identify any specific or general plan requirements which apply and determine whether the draft facility plan is compatible with the acknowledged TSP.

5	Prior to adoption by local government, some facility plans may need to go to the OTC for review and guidance (such as comment on or support of an alternative). Facility plan is reviewed by PBLT and coordinated with the Chief of Staff before OTC review.
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Relationship to the OTP, SAC and TPR

This procedure is framed around the relationship between the Oregon Transportation Plan (OTP), the State Agency Coordination Program (SAC) and the Transportation Planning Rule (TPR). It was developed using the definition of a facility plan in the SAC and definition of a refinement plan in the TPR.

The State Transportation System Plan is comprised of the OTP, modal plans and facility plans. The SAC and Oregon Revised Statutes (ORS) 184.618 require consideration of the following modal elements: aviation, highways, mass transit, pipelines, rail, waterways, and ports. The modal plans further develop policy guidance specific to their topic areas. Facility plans are the first level of refinement in the modal system plans. The term “facility plan” as used in this procedure is consistent with the definition of refinement plan in the TPR and facility plan in the SAC.

The TPR (OAR 660-012-0005) defines “*Refinement Plan*” as, “*an amendment to the transportation system plan, which resolves, at a systems level, determinations on function, mode or general location which were deferred during transportation system planning because detailed information needed to make those determinations could not reasonably be obtained during that process.*”

The SAC rule allows for both a major and minor amendment process that applies to any changes to facility plans or modal plans. The major amendment process for a facility plan is articulated in the SAC (OAR 731-15-065 (1) Coordination Procedures for Adopting Final Facility Plans). The process outlined in this procedure is for major amendments. Facility plans that are amending and/or implementing the OHP are considered major amendments. OAR 731-015-0055 provides direction on facility level issues that may be included in amendments to modal system plans (i.e. designating a new facility) as major amendments to those plans.

Minor amendments are considered technical adjustments as outlined in the delegated authority given to the Director. Delegation Order No. 2 was revised on June 13, 2001, to add the authority from the OTC to the Director to make technical corrections to the OHP (paragraph 4). The revision authorized the Director to add or remove designated portions of highway from the state highway system under limited circumstances and make these technical corrections to the OHP. The fourth paragraph of Delegation Order No. 2 states:

“The statutory duty of OTC to make technical corrections to the Oregon Highway Plan including, but not limited to, corrections to the highway designations and classifications.”

These technical corrections are declared not to be amendments under the coordination procedures of OAR 731-015-0005 *et seq.* However, the Department shall provide notice of

the proposed corrections and provide the public an opportunity to review. This involvement may take the form of press releases, mailings, meetings or other means that the Department determines are appropriate for the circumstances.

After the Director signs the order that makes the technical corrections to the OHP, the Director shall post the technical corrections in the Registry of Amendments on the Department website and maintain an official record of the action in the General Files of the Department.

Findings

Findings are written statements adopted by an agency to explain why a decision is made. They assure that the applicable legal standards have been addressed and show that the decision complies with the applicable law. The SAC (OAR 731-015-0075(7)) says that the Department will make findings concerning compatibility with comprehensive plans. To be upheld on appeal to the Land Use Board of Appeals (LUBA), the Department's findings must be supported by substantial evidence in the whole record (evidence that a reasonable prudent person would rely on in reaching a decision). They can not be mere conclusions and generalizations and must contain a sufficient statement of facts on which they are based. Findings must establish a causal or other relationship between the basic facts and the ultimate conclusions of law and fact.

The findings for the OTC must be complete and definitive in support of the Commission's action. Development of the findings includes showing compatibility with the OHP, OTP and other modal plan policies as appropriate. In addition, development of the findings includes extracting appropriate elements of the local findings and editing them as necessary to make them appropriate for the OTC action. Incorporation by reference is not appropriate. The level of detail of the findings may vary according to the complexity of the plan. The language shall be carefully worded, paying close attention to timing, tense, facts, and conclusion summaries.

From a process standpoint, the main change in the way we adopt facility plans is the content of the findings and the motion before the Commission. The OTC's motion language is slightly different if amending a facility plan. However, the type of action being approved does not change the public process, the determination as to whether or not the facility plan belongs on the regular or the consent agenda, or modify the packet that is prepared for the OTC. Some of the findings can be simplified for facility plans that are only implementing existing modal system plans.

Outreach

Before the OTC hearing occurs, there is a 45-day review period required by federal regulations and a minimum 30-day review period required by the SAC which includes providing copies of the recommended plan to stakeholders including the local governments,

DLCD, other affected agencies and freight interests. The 45-day and 30-day review periods can run concurrently. Notice to Department of Land Conservation and Development shall be directed to Robert Cortright, Transportation Planning Coordinator. At that time he should receive a copy of the plan. Department Region staff shall include DLCD's comments in response to the plan in the OTC packet. If the Region has been working with the DLCD field representative, the representative should be provided a courtesy copy of the notice and copy of the plan.

ACRONYMS

DLCD	Department of Land Conservation and Development
DOJ	Department of Justice
HFO	Highway Finance Office
FP	Facility Plan
IAMP	Interchange Area Management Plan
IGA	Intergovernmental Agreement
LUBA	Land Use Board of Appeals
MOU	Memorandum Of Understanding
MPO	Metropolitan Planning Organization
OAR	Oregon Administrative Rules
OHP	Oregon Highway Plan
ORS	Oregon Revised Statutes
OTC	Oregon Transportation Commission
OTP	Oregon Transportation Plan
PBLT	Planning Business Line Team
SAC	State Agency Coordination Program
SPR	State Planning and Research
STA	Special Transportation Area
TDD	Transportation Development Division
TGM	Transportation Growth Management
TPR	Transportation Planning Rule
TSP	Transportation System Plan

Attachment B: Diagram of procedure steps

Note: Document requires 11 X 17 size paper

Attachment B Facility Plan Adoption Procedure Diagram

