

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Land Conservation and Development (DLCD)

Agency and Division

660

Administrative Rules Chapter Number

Shelia Preston

Rules Coordinator

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Address

, County Building

Thursday December 1, 2005, 9:00 am, First Floor Conference Room, 1101 West Main St., Medford, Oregon 97501 LCDC

Hearing Dates

Time

Location

Hearings Officer

Agriculture Building

Thursday February 2, 2006, 9:00, Basement Hearing Room, 635 Capitol Street NE Salem, Oregon 97301 LCDC

Hearing Dates

Time

Location

Hearings Officer

Are auxiliary aids for persons with disabilities available upon advance request? **Yes**

RULEMAKING ACTION

ADOPT: OAR 660-012-0016

AMEND: OAR chapter 660, division 012-0000 through 0070, and OAR 660-004-0000 and 660-004-0022

Stat. Auth.: **ORS 197.040**

Other Authority: **None**

Stats. Implemented: **ORS 195.025, ORS 197.040, ORS 197.712, ORS 197.717, & ORS 197.732**

RULE SUMMARY

The proposed amendments would revise provisions of the Transportation Planning Rule (TPR) that direct local governments to prepare and adopt transportation system plans. Amendments would clarify the rule in response to evaluations conducted by the Commission in concert with the Oregon Department of Transportation (ODOT) to better express and achieve the Statewide Planning Goals and the rule's objective for coordination of land use and transportation planning. Proposed amendments revise the TPR purpose statement and modify provisions related to metropolitan transportation planning, transportation project development, and other provisions of the rule. Proposed amendments to the TPR and the Interpretation of Goal 2 Exception Process Rule would also consolidate rule requirements for goal exceptions for transportation facilities and improvements on rural lands in the TPR. The proposed rule addresses coordination between metropolitan planning organizations (MPO) requirements under federal law and local government land use decisions under state law.

OTHER OPTIONS

Pursuant to ORS 183.335(2)(b)(G), the Commission requests public comment on whether it should consider other options for achieving the rule's substantive goals while reducing any negative economic impact of the rules on business.

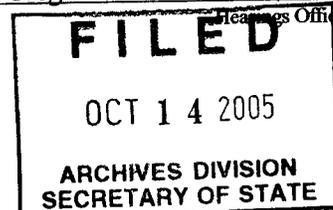
February 2, 2006 (LCDC Meeting)

Last Day for Public Comment

Shelia Preston 10/14/05

Authorized Signer and Date

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 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.



STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form

Department of Land Conservation and Development
Agency and Division

660

Administrative Rules Chapter Number

In The Matter of: Proposed adoption of OAR 660-012-0016 and amendments to the Transportation Planning Rules, (OAR chapter 660, division 012-0000 through 660-012-0070) and Interpretation of Goal 2 Exceptions Process (OAR 660-004-0000 and -0022)

Statutory Authority: ORS 197.040

Other Authority:

Statutes Implemented: ORS 195.025, ORS 197.040, ORS 197.712, ORS 197.717, & ORS 197.732

Need for the Rules(s): The proposed adoption and amendments would revise provisions of the Transportation Planning Rule (TPR) (OAR chapter 660, division 012) that direct local governments to prepare and adopt transportation system plans (TSPs). The proposed provisions are needed to clarify the rule in response to evaluations conducted by the Land Conservation and Development Commission (LCDC) in concert with the Oregon Department of Transportation (ODOT) to better express and achieve the Statewide Planning Goals and the rule's objective for coordination of land use and transportation planning. Proposed amendments to the TPR and the Interpretation of Goal 2 Exception Process Rule would also consolidate rule requirements for goal exceptions for transportation facilities and improvements in the TPR.

LCDC initially adopted the TPR in 1991 to direct local governments to prepare TSPs and to provide guidance on how local governments should conduct and coordinate transportation planning and related land use planning decisions. The Commission has since periodically reviewed the rule and adopted amendments to clarify or revise rule requirements to better express or achieve the rule's objectives. The proposed amendments reflect results of two evaluations conducted in 2004; one by Angelo/Eaton Associates of the TPR generally, the second, conducted by DLCD of the status of transportation planning in metropolitan areas. Overall, the proposed amendments are intended to clarify rule provisions to better express and achieve the rule's objectives and provide clearer guidance to local officials and the public about requirements of Goal 12 and other statewide planning goals related to transportation planning.

Documents Relied Upon: Memoranda prepared by DLCD staff, ODOT staff and consultants and related document prepared for the Joint OTC-LCDC Subcommittee and the Transportation Planning Rule Work Group which are available for inspection at the Department and are available through the Department's website at: <http://www.oregon.gov/ODOT/TD/TP/TPR2.shtml>

Fiscal and Economic Impact: Statutory provisions (ORS 183.335(2)(b)(E) and (G), ORS 183.540) require the agency to consider whether a proposed rule amendment will have any significant economic impact on business and whether options should be considered to reduce any negative

impacts of the rule on business. The amendments to these rules will likely have no impact on most businesses in the state. The rule will have a positive economic impact on businesses pursuing plan amendments that potentially affect the transportation system by clarifying relevant requirements.

In individual cases, the revisions could result in some economic costs and benefits, depending upon the site-specific circumstances and the uses proposed. The exact impact is impossible to predict with available information because of the multitude of possible circumstances.

Statutory provisions also require the agency to estimate the effect of proposed rules on the cost to construct a 1,200 square foot dwelling on a 6,000 square foot parcel. (ORS 183.534). The proposed rules should have negligible effects on construction of the prescribed dwelling unit and lot. The proposed rule amendments guide and directs preparation of transportation plans by local governments and state agencies and, consequently, do not directly affect the cost of constructing housing. Most new housing units are built on lands currently planned and zoned for residential development and to which the rule would generally not apply. Proposed amendments to OAR 660-012-0045(7) authorizing 28' wide local streets as a "safe harbor" may indirectly reduce the cost of constructing housing by encouraging local governments to adopt reduced street improvement requirements for new subdivisions. Reducing street width requirements would reduce land costs by reducing the amount of land devoted to streets, allowing creation of additional lots. Reducing street width requirements would also reduce costs of constructing required street improvements.

Statutory provisions also ask the agency to "Assess what economic and property interests will be, or are likely to be, affected by the proposed rule;"... "Assess the likely degree of economic impact on identified property and economic interests;"... and ... "Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact." ORS 197.040(1)(b). The statute provides that the requirements "shall not be interpreted as requiring an assessment for each lot or parcel that could be affected by the proposed rule." (ORS 197.040(3)).

The proposed rule adoption and amendments apply principally to local governments as they prepare, update or amend transportation system plans. The proposed rules would amend existing provisions that are already in place for such plans and related land use plan amendments. The result of the proposed amendments will be to clarify and streamline guidance for completing required plan amendments and updates. Amendments related to transportation project development and goal exceptions will clarify and simplify planning and approval of improvement transportation projects affecting land use. Resulting plans should improve predictability about future transportation improvements that benefit affected economic and property interests. The department cannot compute the likely cost savings because the results depend on the outcome of individual plans and because of the wide range of different planning situations and circumstances throughout state.

ORS 183.335(2)(b)(E) and 183.530 require the agency to prepare a Housing Cost Impact Statement on a form prepared by the State Housing Council and incorporate that statement into this statement of need required by ORS 183.530 (See ORS 183.534). The Housing Cost Impact Statement is attached and is incorporated into this statement by this reference.

Administrative Rule Advisory Committee consulted? No

If not, why? The Department has utilized a joint subcommittee of LCDC and the Oregon Transportation Commission (OTC) to consult with the public and stakeholders. In addition, LCDC convened a "TPR Working Group" composed of a range of stakeholders to advise the Joint Subcommittee. The Department believes that this process has provided an appropriate and effective opportunity for the public and stakeholders to provide advice and input to development of the proposed rule amendments and that creation of a separate advisory committee would be redundant. The joint OTC-LCDC Transportation Subcommittee met three times and the TPR Working Group met four times between April and October 2005 to review and evaluate recommended rule language. As noted above, the proposed rule amendments and adoption were also informed by two evaluations of the Transportation Planning Rule conducted in 2004. The two evaluations included conducting a series of meetings and interviews with stakeholders to identify significant issues related to the TPR. These interviews and meetings provided the basis for work by the subcommittee and led to development of the proposed rule amendments.


Authorized Signer and Date

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.

(ORS 183.534)

FOR ADMINISTRATIVE RULES

PERMANENT: X

AGENCY NAME: Department of Land Conservation and Development

HEARING DATES: December 1, 2005, February 2, 2006

ADDRESS: 635 Capitol Street NE, Suite 150

CITY/STATE: Salem, OR 97301-2540

PHONE: (503) 373-0050

TEMPORARY:

EFFECTIVE DATE: Upon Filing

BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL RESULT FROM THIS PROPOSED CHANGE.

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed changes: The proposed adoption and amendments will revise provisions of the Transportation Planning Rule (OAR 660-012) and related provisions in the Interpretation of Goal 2 Exceptions Process Rule (OAR 660-004) that guide and direct transportation planning by local governments, state agencies and other units of government. The proposed amendments update the administrative rules to address recommendations from evaluations of the rules conducted by the agency in 2004 and 2005. The amendments are intended to clarify and streamline the process for transportation planning in coordination with land use planning.

Description of the need for, and objectives of the rule: The proposed adoption and amendments would revise provisions of the Transportation Planning Rule (TPR) (OAR 660-012-0000 through 0070) that direct local governments to prepare and adopt transportation system plans (TSPs). The TPR was initially adopted in 1991 and has been periodically amended since that time. Amendments are needed to clarify the rule in response to evaluations conducted by the Commission in concert with the Oregon Department of Transportation (ODOT) to better express and achieve the Statewide Planning Goals and the rule's objective for coordination of land use and transportation planning. Proposed amendments would also consolidate rule requirements for goal exceptions for transportation facilities and improvements in the TPR.

List of rules amended: OAR 660-012-0000 through 660-012-0070 and OAR Chapter 660-004-000 and 660-004-0022.

List of rules adopted: OAR 660-012-0016

Materials and labor costs increase or savings: The adoption and amendments will not affect the cost of housing materials or labor costs. Otherwise the rules do not address the type of materials that may be used or labor costs. The proposed amendments modify existing rule requirements that guide local governments in the preparation of transportation plans and planning for transportation facilities and services needed to support planned development, including housing. Most of the existing rule provisions that require transportation system plans and detailed planning for transportation facilities and improvements are unchanged by the proposed amendments.

Estimated administrative, construction or other costs increase or savings: The proposed rule adoption and amendments are unlikely to affect administrative, construction or other costs. Most new housing units are built on lands currently planned and zoned for residential development and to which the rule would generally not apply.

Land costs increase or savings: The proposed rule adoption and amendments would generally not affect land costs for single family dwellings. Most new housing units are built on lands currently planned and zoned for residential development and to which the rule would generally not apply. Proposed amendments to OAR 660-012-0045(7) authorizing 28' wide local streets as a "safe harbor" may indirectly reduce land costs by encouraging local governments to adopt reduced street improvement requirements for new subdivisions. Reducing street width requirements may reduce land costs by reducing the amount of land devoted to streets, allowing creation of additional lots. Reducing street width requirements may also reduce costs of constructing required street improvements.

Other costs increase or savings: NA

PREPARERS NAME: Robert Cortright, Transportation Planning Coordinator

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