

March 16, 2018

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**VIA E-MAIL AND FIRST CLASS MAIL**

Mr. Steve Hoyt-McBeth  
Portland Bureau of Transportation  
Active Transportation and Safety Division  
1120 SW Fifth Avenue, Suite 800  
Portland, OR 97204

RE: Campus Institutional Rulemaking

Dear Mr. Hoyt-McBeth:

This office represents Providence Health & Services–Oregon. This letter is a timely comment on the proposed Transportation Demand Management (“TDM”) administrative rules prior to March 16, 2018, at 5:00 p.m.

On behalf of Providence, I respectfully ask that you consider these comments and modify the rules accordingly.

1. Incorporation of March 1, 2018, comments by Steve W. Able. Steve W. Able, representing Lewis & Clark College and Reed College submitted comments on the rules dated March 1, 2018. Providence hereby incorporates those comments in their comments.
2. Proposed Rule V.C. Providence asks that the word “required” be changed to “encouraged.” While an Early Assistance meeting might be useful, it may not be required.
3. Proposed Rule V.D. This proposed rule contains the approval criteria for a TDM Plan. The proposed rule includes additional elements used to evaluate the TDM Plan. The proposed rule should explain how the additional strategies affect the approval criteria.
4. Proposed Rule V.E. The proposed rule should explain how factors 1–5 affect PBOT’s evaluation of all Current and Performance Targets.
5. The proposed rule uses the phrase “TDM encouragement.” This term is undefined and should be defined.
6. Proposed Rule V.D.2. This proposed rule requires that PBOT consider the applicant’s mode split performance over the last ten years. However, the rule does not account for unavailable mode split data.

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7. The rule is unclear on the appellate procedure, the standard of review, and the burden of proof. In the event PBOT approves a TDM Plan as part of a transportation impact review, the rule should specify that the presumption is that the determination is correct and the burden of proof should be on the appellant to prove otherwise.

8. It is unclear from the rule what physical improvements an applicant must make to satisfy its transportation demand management obligation under a transportation impact review. The rules should account for situations where the right of way is unavailable to an institution to make such improvements, or when such improvements outweigh the benefits to be gained by the improvement. Further, the rule should provide in such instances that an institution may make a fee-in-lieu instead of physical improvements when required by PBOT.

9. Proposed Rule V.D.5. This proposed rule requires PBOT to consider an applicant's past efforts to communicate with an affected neighborhood and business associations and to accommodate their concerns. The phrase "where reasonable and possible" should be added. An institution may well have attempted to accommodate a neighborhood for business associations concerns but have been unable to do so for any number of reasons. The fact that they were unable to do so should not weigh against their effort to otherwise accommodate such concerns.

10. Proposed Rule VI.A. This section refers to violations. The proposed rule should clarify that PBOT may not require or may not issue violations where an institution is unable to make appropriate gains notwithstanding best efforts or other mitigating circumstances.

I am Providence's representative for this matter. Please provide all correspondence and notices concerning the proposed rules to me at the above address.

Very truly yours,



Michael C. Robinson

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cc: Ms. Jen Massa-Smith (*Via Email*)

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