



Oregon

Tina Kotek, Governor

Department of Transportation
Office of the Director
355 Capitol St NE
Salem, OR 97301

April 14, 2023

Dear Director Bateman,

ODOT has received the Department of Land Conservation and Development's ("DLCD") comment addressing ODOT's notice to issue a final decision finding that its Tolling Program is not a program affecting land use and, therefore, does not fall within our state agency coordination requirements set forth in OAR chapter 731, division 15. Thank you for providing us with your comment and requesting additional information to support our decision.

In your comment, you requested additional information relating to ODOT's analysis and evaluation of the impact the Tolling Program would have on the following areas:

- 1) Diversion of traffic to non-interstate freeway elements of local transportation systems;
- 2) Promotion of use of alternate modes of transportation; and
- 3) Whether local acknowledged plans account for diversion and alternative mode choices.

In addition, you requested information regarding the process in which the public and local agencies would be afforded the opportunity to weigh in as to pricing levels, i.e. rate setting. The additional information is as follows:

Diversion of traffic to non-interstate freeway elements of local transportation system plans:

When ODOT is considering implementing a toll and/or congestion pricing to a specific section of a state highway, ODOT is still required to comply with all federal and state laws, rules, and regulations for highway projects. ODOT considers the decision process for implementing a potential toll and/or congestion pricing to fall under ODOT's existing highway design and construction programs. This means that each location is a unique situation that will require project level analysis. If such a project includes significant infrastructure construction – like the proposed I-205 Toll Project (includes seismic improvements and constructing the third lane) or like the proposed Interstate Bridge Replacement project, those specific projects that are considering tolling and congestion pricing will be required to analyze the impacts of the project including the potential impacts from tolling and congestion pricing. Additionally, locations where there will not be significant infrastructure included, such as the Regional Mobility Pricing Project, ODOT still is required to complete analysis to evaluate the potential effects to the transportation system (including diversion). As part of this analysis, the projects will analyze different rates to understand how users will respond in order to evaluate if the projects goals are met.

For tolling and/or congestion pricing, those goals are outlined in the new Tolling and Pricing amendments in the Oregon Highway Plan (OHP) and as defined for a specific project in the purpose and need statement in compliance with federal National Environmental Protection Act requirements. The general OHP goals are to ensure that the toll rates meet the following goals:

- Generate enough revenue to pay the cost of administration of a toll system, and

- Generate enough revenue to help pay for the infrastructure construction as part of the projects financing plan.
- If the project includes congestion pricing, establish the rate so that the project achieves the desired level of congestion relief.

The analysis performed for the individual project will include evaluation of rate ranges to evaluate if these goals are met and also include the impacts of those rate ranges for things like:

- Diversion of auto traffic to other roadways,
- Shifting of auto traffic to other times of day,
- Shifting of auto traffic to other modes of travel.

The results of these analyses are part of the project development process and project record.

Promotion of use of alternative modes of transportation:

As mentioned above, each proposed location where a toll or congestion pricing is being considered will need to comply with goals and policies within the Oregon Highway Plan (OHP) as well as other state and federal rules and regulations. The OHP Tolling and Pricing policies recognize that one goal of congestion pricing is to help encourage travelers to change some of their trips from auto to non-auto modes. This helps manage congestion as well as supports Oregon's climate change goals. The recent changes to the Oregon Highway Plan around tolling and pricing outline how pricing can help achieve Oregon's climate goals and helps implement key actions from the Statewide Transportation Strategy for GHG reduction and is consistent with the recent TPR changes adopted by LCDC in 2022. Changing from an auto trip to a non-auto trip is another type of diversion and as mentioned above will be analyzed as part of each specific proposed tolling or pricing location.

Whether local acknowledged plans account for diversion and alternative mode choices:

In order to comply with NEPA requirements, projects must show that they are consistent with State, Regional, and Local plans – including local comprehensive and transportation plans. As mentioned above, analysis will be performed for any proposed tolling or pricing location and the analysis will evaluate diversion and mode choices. An example of this analysis of consistency is part of the I-205 Environmental Assessment – see the Land Use Technical Report.

In summary, every proposed potential location where a future toll or congestion pricing may be applied will need to go through substantial analysis under federal and state processes and is required to follow existing ODOT programs outlined in the SAC as well as federal rules and regulations. ODOT understands that there are many questions related to specific proposed projects. As reference, here are links to the I-205 and RMPP projects. I-205 currently is taking public comments on the draft environmental assessment and the RMPP will be starting the formal environmental documentation process soon.

I-205 Project: <https://www.oregon.gov/odot/tolling/Pages/I-205-Tolling.aspx>

RMPP: <https://www.oregon.gov/ODOT/tolling/Pages/I-5-Tolling.aspx>

Public Process for Setting Actual Rates:

Under Oregon law, setting a toll rate is considered the same as setting a fee and as such, the Oregon Transportation Commission (OTC) is required to establish the actual toll rate through Oregon Administrative Rules. Per statute, OTC is the tolling authority for Oregon. To comply with these requirements, ODOT has actually begun this process and has formed a Statewide Toll Rule Advisory Committee (STRAC) to help ODOT establish the Administrative Rules for the Toll Program. The Toll Program will be defined in this rule making effort and include the following elements:

- Toll payment options and choices
- Additional fees applicable for payment options
- Requirements for implementation of a Low Income Toll Program (including options for registering and how discounts would be applied)
- Vehicle exemptions
- Enforcement requirements (including options, timelines, fees, civil penalties, etc.)
- Location specific rates by time of day

When these items, including the actual toll rates, are included in the administrative rule making process, state laws require opportunity for public review and comment on any rule making process – which as shown above would include the actual rate setting as well as any future adjustments. Here is the link to the Statewide Toll Rulemaking Committee currently working on these rules:

<https://www.oregon.gov/odot/tolling/Pages/Statewide-Toll-Rulemaking-Advisory-Committee.aspx>.

As you can see from ODOT's responses to your questions, the public and local agencies will be afforded several opportunities to review and provide input relative to any specific proposed toll/pricing location as well as the opportunity to review and provide input on the final rate setting process in administrative rules.

ODOT hopes that the information above provides more information and context of how potential toll/pricing projects will still comply with existing ODOT programs within our SAC agreement with DLCDC. Our proposed action is to be clear that ODOT's Toll Program is different than toll projects; the Toll Program only includes the requirements of setting formal toll/pricing rates and the requirements to administer and oversee toll collection systems, not toll projects.

Sincerely,



Kristopher W. Strickler
Director

Cc:

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