

Oregon Department of Transportation  POLICY	NUMBER MAI 06-04	SUPERSEDES NEW
	EFFECTIVE DATE 11/05/04	PAGE NUMBER 01 OF 02
	VALIDATION DATE 08/28/17	
	REFERENCE Article IX, Section 3a of the Oregon Constitution adopted by the voters on May 20, 1980; ORS 509.580 through 509.645; OAR 141-089-0100 through 141-089-0120	
SUBJECT TIDEGATE	APPROVED SIGNATURE Signature on File in Business Services	

PURPOSE

To establish policy to stop the installation, maintenance, or repair of tidegates that do not benefit the public highways, as determined by the District Manager, unless the Oregon Department of Transportation (Department) is bound by written agreement to maintain the tidegate.

BACKGROUND

Increased costs, regulatory needs, and the inability to expend gas and motor fuels tax revenues on tidegates that do not benefit the public highways have led to the development of a policy limiting the installation, maintenance, or repair of tidegates only to those situations where the obligation arises from a written agreement or the District Manager has determined the tidegate is essential to the integrity of the road.

The factors leading to the development of this policy are:

- Culverts across the state are aging and in need of repair or replacement. Where repair or replacement is needed, the Department shall follow changing state and federal regulatory needs and funding limitations that, in turn, affect the management of tidegates.
- More stringent state and federal policies now call for fish passage. These policies result in the need for different treatment of culverts, floodgates¹, and tidegates.
- An amendment to the Oregon Constitution in 1980 limited the expenditure of state motor vehicle and fuel taxes. Attorney General advice clarified that expenditure of gas and motor fuels tax revenues is limited to those that benefit public highways, roads, streets, and roadside rest areas in this state.

POLICY

The policy of the Department is to stop the installation, maintenance, or repair of tidegates that do not benefit the public highways, as determined by the District Manager, unless the Department is bound by a written agreement.

¹ The Department policy on tidegates also includes floodgates. The Department has dealt in the past with one floodgate, in District 10 near the Chickahominy Reservoir, Highway 7, Route 20.

DEFINITION

Tidegates: Tidegates or flap gates are doors or lids attached to bridges or the discharge ends of culverts to control water flow. Tidegates close during incoming (flood) tides to prevent tidal waters from moving upland. They open during outgoing (ebb) tides to allow upland water to flow through the culvert and into the receiving body of water.

GUIDELINES

RESPONSIBILITY

ACTION

Geo-Environmental
Section Manager

Coordinate with the State Maintenance Engineer and the Right of Way Section to carry out this policy.

District Maintenance
Staff

Locate all tidegates on Department facilities.

Report those tidegates to the Geo-Environmental Section Manager.

Make initial decision of benefit or risk to the highway for those tidegates on Department facilities.

Tell Right of Way of all tidegates with no benefit to the state highway system.

Keep or repair only those tidegates on Department facilities where there is benefit to the public highways, in agreement with local governments if not on the state system, or where otherwise bound by a written agreement.

Right of Way Section

Review records, deeds, easements, and right of way agreements for those tidegates located as “no benefit” to decide whether the Department might otherwise be bound by a written agreement.

State Maintenance
Engineer

Make final decision of benefit or risk to the highway where decisions by District Maintenance staff are called into question.

For those tidegates with no benefit or risk to the public highways, work with the Attorney General’s office to review any written agreements existing to decide the Department’s responsibilities based on the language in each agreement.

Negotiate agreements with other public entities on cost responsibility where the tidegate on the Department right of way benefits non-Department public transportation infrastructure.