PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 731
DEPARTMENT OF TRANSPORTATION

FILING CAPTION: Amendment of Administrative Rules required by HB 2881 (2019), 2019 Or Laws, Chapter 428

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AMEND: 731-090-0000

NOTICE FILED DATE: 08/22/2019

RULE SUMMARY: Amends definitions to conform to HB 2881 (2019).

CHANGES TO RULE:

731-090-0000
Definitions ¶

(1) "Account Manager" means a Certified Service Provider under ORS 319.915. It is either the Department or a Commercial Account Manager. Should the Department outsource the agency’s account management function for Road Usage Charging to an ODOT Account Manager, “Account Manager” shall include the ODOT Account Manager. ¶

(2) "Anonymized Information" means information that does not identify or describe a person. ¶

(3) "Anonymized Aggregated information" means aggregated information accumulated in a way that preserves the anonymity of the persons participating in the Road Usage Charge Program, and does not identify or describe a person or create travel pattern data. ¶

(4) "Certified Service Provider" means an entity that has entered into an agreement with the Department of Transportation under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of per-mile road usage charges and authorized employees of the entity. For these rules, Account Manager will be used in lieu of Certified Service Provider. ¶

(5) "Combined rating" means the weighted average of city and highway miles per gallon values calculated by weighting the city value at 55% and the highway value at 45%, as determined by the United States Environmental Protection Agency. ¶

(6) "Commercial Account Manager" means an entity, operating within a commercial market, which has entered into an agreement with the Department under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of Road Usage Charges and authorized employees of the entity. ¶
“Consent” means voluntary agreement given to retain location and daily metered use beyond the period required by ORS 319.915(4) (a). ¶

(a) A RUC Payer must provide consent to an Account Manager in a manner separate and apart from a general approval of terms and conditions. A written request by the RUC Payer to an Account Manager constitutes consent. ¶

(b) The consent may not be presented as, or serve as a condition to, a Road Usage Charge service agreement between the ODOT Account Manager and the RUC Payer. ¶

(c) For consent to be valid under this rule, an Account Manager must notify the RUC Payer of the Account Manager’s request to consent to retain the records, including a specific description of the information to be retained and the retention timeframe. ¶

“Delinquency” means failure to report or pay by the due date. ¶

“Electric Vehicle” is a passenger vehicle, that is capable of attaining a speed of 55 miles per hour or more, and is powered:

(a) Primarily by an electric battery and may or may not use a flywheel energy storage device or a capacitor that stores energy to assist in vehicle operation; or ¶

(b) By polymer electrolyte membrane fuel cells or proton exchange membrane fuel cells that use hydrogen fuel and oxygen from the air to produce electricity; or ¶

(c) Primarily by a zero-emission energy storage device that provides enough power for the vehicle to travel 75 miles or more using only electricity and may or may not use a backup alternative power unit that does not operate until the energy storage device is fully depleted. ¶

“Eligible vehicle” means an electric vehicle or a vehicle with a combined rating of at least 20 miles per gallon and has the ability to support the reporting of mileage and other data to the Account Manager. ¶

(a) The RUC Payer must give express approval in a manner separate and apart from a general approval of terms and conditions with the Account Manager. ¶

(b) For express approval of an entity to receive Personally Identifiable Information to be valid, an Account Manager must notify the RUC Payer of the request to disclose PII, including a specific description of the information to be disclosed. ¶

“Good cause,” for the purposes of Division 90 rules, means circumstances outside the reasonable control of an Account Manager that make it impossible for the Account Manager to deliver, deposit, or transmit its Official Tax Reports or payments to the Department in compliance with this section, or that make it impossible for the Account Manager to do so without incurring exceptional additional expense. ¶

(a) These circumstances include catastrophic events, suspension of the operations of financial institutions or communications carriers on which an Account Manager depends, and serious and unforeseen failures or the disablement of an Account Manager’s information management, accounting, or transmission systems, that make the timely submission of the reports or payments unachievable. ¶

(b) “Good cause” does not include circumstances that an Account Manager could anticipate, like system service interruptions for maintenance or upgrades of an Account Manager’s operational systems. ¶

(c) The Account Manager shall have the burden of presenting ODOT with reliable evidence that the circumstances of any untimeliness in the Account Manager’s submission of reports or payments satisfy this standard of good cause. ¶

“Lessee” means a person that leases a motor vehicle that is required to be registered in Oregon. ¶

“Metered Use Report” means an Account Manager’s periodic report of its RUC Payer’s metered use of Oregon’s public roads for submittal to the Department. ¶

“Metered Use Reporting Period” means the period of time for which metered use, or the miles driven, are reported by the RUC Payer to the Account Manager and by the Account Manager to the Department. The frequency of the metered use reports is determined by contract between the Department and the Account
Manager.

(146) "Mileage Reporting Method Option" is the manner in which the RUC Payer will report miles and other data to the Account Manager. All mileage reporting method options must be approved and certified by the Department for use in the Road Usage Charge Program.

(157) "Net Road Usage Charges" means Road Usage Charges attributable to taxable miles reported less Oregon fuels tax credit, applicable to the same reported miles.

(168) "Non-compliance" includes, but is not limited to, failure to report regularly, failure to pay an invoice, tampering or fraud, non-responsiveness to Account Manager requests for information, and not following terms and conditions as agreed to in the Volunteer Agreement.

(179) "Non-compliance Investigation" means an investigation by the Department to determine if, and to what extent, any person, including but not limited to a RUC Payer, is in compliance with the statutory provisions of the Road Usage Charge Program and associated Oregon Administrative Rules in Chapter 731, Division 90. Such investigations may include informal inquiries or a formal review of the relevant records and the mileage reporting method option of the RUC Payer or Account Manager to ascertain the extent of non-compliance, if any.

(1820) "Null Mileage Day" means any 24 hour period from 12:00 AM to 11:59 PM Pacific Time where no miles are reported by the subject vehicle and there is an indication of reporting error for the subject vehicle for that day.

(219) "ODOT" or "Department" means the Oregon Department of Transportation.

(202) "ODOT Account Manager" means an entity, operating in the capacity of ODOT, which has entered into an agreement with the Department under ORS 367.806 for reporting metered use by a subject vehicle or for administrative services related to the collection of Road Usage Charges and authorized employees of the entity.

(213) "Official Tax Report" means an Account Manager’s periodic report of its RUC Payer’s metered use and the associated Road Usage Charge for submittal to the Department.

(224) "Official Tax Reporting Period" means a calendar quarter during which an Account Manager must file the Official Tax Report of its RUC Payer’s metered use and remit the associated tax to the Department in accordance with its contractual obligation.

(235) "Personally identifiable Information" or "PII" means any information that identifies or describes a person that is obtained or developed in the course of reporting metered use by a subject vehicle or for providing administrative services related to the collection of Road Usage Charges.

(a) PII includes, but is not limited to, the person’s travel pattern data, per-mile road usage charge account number, address, telephone number, electronic mail address, driver license or identification card number, registration plate number, photograph, recorded images, bank account information and credit card number.

(b) PII does not include anonymized information or anonymized aggregated information.

(246) "Registered Owner" means a person or a business, other than a vehicle dealer, that holds a certificate issued under ORS 822.020, which is required to register a motor vehicle in Oregon.

(257) "Reasonably Reliable Information available" means any data or information that can be used to determine tax due including calculated projections or averages based on prior reports or data from other sources as determined by the Department.

(268) "Road Usage Charge" or "RUC" means a fee charged at the statutory rate per mile driven on Oregon public roads.

(279) "Plug-in hybrid electric motor vehicle" means a passenger, hybrid electric motor vehicle that is capable of attaining a speed of 55 miles per hour or more, and that:

(a) Has zero evaporative emissions from its fuel system;

(b) Has an onboard electrical energy storage device with useful capacity of 10 or more miles of urban dynamometer driving schedule range, as described by the United States Environmental Protection Agency, on electricity alone;

(c) Is equipped with an onboard charger;

(d) Is rechargeable from an external connection to an off-board electrical source; and

(e) Meets the super ultra-low emission vehicle standards for exhaust emissions, as defined by the United States Environmental Protection Agency by rule.
"Road Usage Charge Program" or "Program" means the voluntary program established by ORS 319.883 to 319.945 for paying the Road Usage Charge in lieu of the fuel tax.

"RUC Payer" refers to the registered owner or lessee of a subject vehicle that voluntarily participates in the Road Usage Charge Program.

"Subject Vehicle" means a motor vehicle that is the subject of an application approved pursuant to ORS 319.890.

"Tax Remittance Report" means a ledger of taxes owed by and due to RUC Payers who are enrolled with the ODOT Account Manager. It is submitted by the ODOT Account Manager to the Department quarterly.

"Travel Pattern Data" means location and daily metered use of a subject vehicle and data that describes a person’s travel habits in sufficient detail that the person becomes identifiable either through the data itself or by combining publicly available information with the data.

Statutory/Other Authority: ORS 184.616, 184.619, 319.883 - 319.990
Statutes/Other Implemented: ORS 319.883 - 319.990
AMEND: 731-090-0010

NOTICE FILED DATE: 08/22/2019

RULE SUMMARY: Amends rule to conform to HB 2881 (2019).

CHANGES TO RULE:

731-090-0010
Confidentiality ¶

(1) An Account Manager may not disclose Personally Identifiable Information (PII) used or developed for reporting metered use by a subject vehicle or for administration services related to the collection of Road Usage Charges to any person except as allowed by ORS 319.915(3). An ODOT Account Manager may not disclose PII without written approval of the Department. ¶

(2) If the RUC Payer declines to give express approval for disclosure of PII to an entity, such an act must not invalidate any Road Usage Charge service agreement existing between the Account Manager and the RUC Payer. ¶

(3) Not later than 30 days after completion of payment processing, dispute resolution for a single payment period or a noncompliance investigation, whichever is latest, the Account Manager shall destroy records of location and daily metered use of subject vehicles. ¶

   (a) A Commercial Account Manager may retain and use records of location and daily metered use of subject vehicles if the RUC Payer consents to the retention and use. ¶

   (b) If the Net Road Usage Charge results in a refund RUC Payer files for a refund under ORS 319.280, records of location and daily metered use of subject vehicles will be destroyed 30 days after check issuance, dispute resolution for a single refund period, or a noncompliance investigation, whichever is latest. ¶

(4) An Account Manager may retain, aggregate and use, for the purposes of traffic management and research, records of the location and daily metered use of subject vehicles after removing Personally Identifiable Information. ¶

(5) Upon request of the RUC Payer, an Account Manager and its contractor shall provide the RUC Payer the following rights regarding Personally Identifiable Information (PII): ¶

   (a) The right to inquire about the nature, accuracy, status and use of the RUC Payer’s PII; ¶

   (b) The right to examine the RUC Payer’s PII or a reasonable facsimile of the RUC Payer’s PII; ¶

   (c) The right to request corrections of the RUC Payer’s PII should the RUC Payer provide reasonable evidence that the RUC Payer’s PII has errors or has changed; ¶

   (d) The right to delete the location and daily metered use data that has not been destroyed within the required period of time, as per ORS 319.915 (4); and ¶

   (e) An Account Manager, and its contractor, shall respond to all such requests within five (5) business days of receipt of the request.

Statutory/Other Authority: ORS 184.616, 184.619, 319.883 - 319.990
Statutes/Other Implemented: ORS 319.915
RUC Payer: Enrolling in the Program ¶

(1) For a vehicle to be eligible for participation in the Road Usage Charge Program, the registered owner or lessee of the passenger vehicle must: ¶
(a) Have the vehicle registered in Oregon; ¶
(b) The vehicle must meet the definition of passenger vehicle as found in OAR 735-030-0015 (1); ¶
(c) The subject vehicle has a combined rating of at least 20 miles per gallon; ¶
(d) Select a Mileage Reporting Method and an Account Manager from options certified by the Department; ¶
(e) Complete an application with the Account Manager, on a form approved by the Department; and ¶
(f) Equip or activate a Mileage Reporting Method within the vehicle. ¶

(2) The registered owner or lessee of the motor vehicle must provide a minimum of the following information for the subject vehicle to the Account Manager: ¶
(a) Vehicle identification number; ¶
(b) Registration plate number; and ¶
(c) Vehicle make, model and year. ¶

(3) The Department may determine certain passenger vehicles are ineligible for the Program if: ¶
(a) The approval would cause the number of subject vehicles active in the Road Usage Charge Program to exceed 5,000; or ¶
(b) The approval would cause the number of subject vehicles in the Road Usage Charge Program with a rating of less than 17 miles per gallon to exceed 1,500; or ¶
(c) The approval would cause the number of subject vehicles in the Road Usage Charge Program with a rating of at least 17 miles per gallon but the subject vehicle has a combined rating of less than 20 miles per gallon to exceed 4,500; or ¶
(d) The classification of the vehicle would exceed the requirement listed in ORS 319.890; or ¶
(e) The vehicle does not have the capability to functionally accommodate a certified Mileage Reporting Method; ¶

(4) RUC Payers who are dissatisfied with the reporting or payment requirements of their selected Account Manager may un-enroll from the Program and re-enroll in the Program with another Account Manager. Reenrollment is contingent upon the RUC Payer being in good standing with the previous Account Manager. ¶

(5) At the discretion of the Department, the Department may issue emblems to selected RUC Payers who have use fuel vehicles, as defined in ORS 319.520 (7) enrolled in the Program, with the permission or at the request of the RUC Payer. ¶

(6) At the discretion of the Department or the Account Manager, a RUC Payer may be unenrolled from the Program for Non-Compliance. ¶

(7) Electric Vehicles and vehicles with a combined MPG rating of 40 miles per gallon, or greater, that enroll in the Program will be exempted from paying additional registration fees under ORS 803.422, at the time of vehicle registration, or renewal of registration. ¶

(8) If the electric eligible vehicle is un-enrolled from the Program, or is removed from the Program for non-compliance, the entity the vehicle is registered to will be responsible for paying all applicable additional registration fees.
AMEND: 731-090-0030
NOTICE FILED DATE: 08/22/2019
RULE SUMMARY: Amends rule to conform to HB 2881 (2019).

CHANGE TO RULE:

731-090-0030
RUC Payer: Mileage Calculation

(1) The Account Managers shall collect road usage data by methods approved and certified by the Department. The Department may authorize the following methods for collecting road usage data:

(a) Mileage reporting that uses vehicle location capability (Advanced); or

(b) Mileage reporting that does not use vehicle location capability (Basic); or

(c) Mileage reporting that alternates between Basic and Advanced location and non-location based functionality at the RUC Payer's discretion (Switchable); or

(d) Other technologies that collect and report road usage data.

(2) For any subject vehicle that incurs more than 10 null mileage days in a calendar year, the RUC Payer may be assessed a Road Usage Charge for any null mileage days. The null mileage day calculation process is determined by the agreement between the RUC Payer and the Account Manager.

(3) For any Road Usage Charge assessed for null mileage days, the RUC Payer may request abatement of part or all of the assessment and submit information supporting the request to the Account Manager.

(4) Gaps in RUC Payer data reporting will be reviewed by the Department. How to resolve and account for gaps in RUC Payer data reporting will be determined in contractual documents between the Department and the Account Managers.

(5) Tax liability begins on the day the Mileage Reporting Method Option is activated in the vehicle for the purposes of collecting the Road Usage Charge. Tax liability ends on the day the RUC Payer informs the RUC Payer's Account Manager, in the manner prescribed by the Account Manager, that the RUC Payer wants to leave the program.

(6) RUC Payer information supplied to the Department by the Account Manager may be reviewed by the Department. If the Department finds that Road Usage Charge or fuels tax credits were incorrectly or insufficiently calculated, the Department may adjust the account, which will result in an invoice or a refund. RUC Payers are expected to pay invoices resulting from a Departmental review within 30 days, or the Department may assess interest at the rate of 1 percent per month as well as a 10 percent late penalty fee for delinquent payments.

Statutory/Other Authority: ORS 184.616, 184.619, 319.883 - 319.990
Statutes/Other Implemented: ORS 319.915
RUC Payer: Reporting and Payment

(1) All RUC Payers, or the Account Manager that reports on their behalf, must report and pay the Road Usage Charge for their subject vehicles.

(2) All RUC Payers must report all miles subject to the Road Usage Charge during a Metered Use Reporting Period to their Account Manager. The Mileage Reporting Method must be configured to report metered use at least once a month.

(3) RUC Payers who have paid Oregon fuels tax will receive a credit to be applied against their Road Usage Charge.

(a) If the subject vehicle’s Mileage Reporting Method is unable to calculate actual fuel consumption, the Account Manager will use the Combined Fuel Economy Rating for the vehicle as determined by the United States Environmental Protection Agency manufacturer’s Vehicle Identification Number, or other reliable available information available to the Department.

(b) Electric Vehicles will not receive a fuels tax credit.

(4) If the RUC Payer is an emblemed use fuel user with the Department’s Fuels Tax Group, then the Department will assume that the RUC Payer is fueling only with tax-exempt fuel, and is therefore not entitled to a fuels tax credit to be applied against the RUC Payer’s road usage charge.

(5) The following will apply to RUC Payers who select the Department or the ODOT Account Manager for reporting their miles traveled and paying their Road Usage Charges:

(a) The ODOT Account Manager or the Department will invoice or refund the Net Road Usage Charge once the account threshold has exceeded 20 dollars, and the calendar quarter end has been reached.

(b) The Department will assess interest at the rate of 1 percent per month as well as a 10 percent late penalty fee for delinquent payments. Delinquency is defined as 45 days past the due date. This penalty may be waived at the discretion of the Department.

(6) The following will apply to RUC Payers who select a Commercial Account Manager for reporting their miles and paying their Road Usage Charges:

(a) The Commercial Account Manager will invoice or refund the Net Road Usage Charge per its agreement with the RUC Payer.

(b) The Commercial Account Manager shall assess penalties and interest for delinquent payments as established in its agreement with the RUC Payer.

(c) The Commercial Account Manager may remove the RUC Payer from the Program for non-compliance.

(7) Electric vehicle owners and those with a combined rating of 40 miles per gallon or higher that do not report at least once a month, or are otherwise removed from the Program by the Account Manager for Non-Compliance, will be removed from the Program and will have to pay all applicable registration fees according to HB 2017, Section 32 (2017 Oregon Laws, chapter 750) at the time of their next registration for the current registration period according to ORS 803.422.

Statutory/Other Authority: ORS 184.616, 184.619, 319.883 - 319.990
Statutes/Other Implemented: ORS 319.915
Amend: 731-090-0070
Notice Filed Date: 08/22/2019
Rule Summary: Amends rule to conform to HB 2881 (2019).
Change to Rule:

731-090-0070
RUC Payer: Refunds for Out of State Mileage/Non-Public Road Mileage

(1) Any RUC Payer who has been assessed Road Usage Charges for miles operated off of public roads, or roads outside of Oregon, or otherwise has overpaid the Road Usage Charge, may request a refund from the Department on a form prescribed by the Department. The Department will determine, on a case by case basis, what travel is eligible for refund.

(2) The refund request must be postmarked no later than 15 months after the date on which the RUC Payer pays the Road Usage Charge for which a refund is claimed.

(3) Refund requests must be accompanied by information acceptable to the Department to support the refund claim. Acceptable information may include, but is not limited to, odometer readings, vehicle trip records indicating out-of-state or non-public road usage of the vehicle, and other documentation supporting a claim. RUC Payers that do not maintain and report this information will not be entitled to a refund.

(4) RUC Payers may use daily metered use and location data, as captured by the Mileage Reporting Method Option, to support their refund claim, only if the Mileage Reporting Method Option has the capability to differentiate between public and non-public road usage and out of state miles, to a degree acceptable to the Department, and the RUC Payer has requested in writing that the RUC Payer’s Account Manager maintain this data past beyond the timeframes established in ORS 319.915.

(5) Refund checks will be issued by the Department in January for refunds requested during the previous calendar year.

Statutory/Other Authority: ORS 184.616, 184.619, 319.883 - 319.990