



Oregon

Kate Brown, Governor

Oregon Transportation Commission

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

DATE: August 26, 2021
TO: Oregon Transportation Commission

FROM: Kristopher W. Strickler
Director

SUBJECT: **Consent 09** – *Delegations to Oregon Department of Transportation*

Requested Action:

Approve revised delegation order to add new delegations of authority from the OTC to the Oregon Department of Transportation (ODOT) that better align with OTC expectations of roles and responsibilities.

Background:

At the May 2020 OTC meeting, commissioners made clear their desire to review the roles and responsibilities of both the commission and the department to ensure that the commission has the ability to provide strategic vision and direction to the department and not be bogged down in programmatic decisions more appropriate for ODOT leaders and staff.

ODOT staff have continuously worked to identify additional delegations that reduce redundancy and align with this commission direction of placing programmatic and operational decisions with the department. The agency proposes four additions to the existing delegation order (Attachment 1, proposed delegations bolded), as described below.

ODOT anticipates bringing back additional recommended delegations for commission consideration on a somewhat regular cycle, as they come to light through the agency's many ongoing work efforts.

Recommended Delegations:

HB 2017 Section 11 system condition report

Every two years ODOT, each city, and each county is required to report on the condition of their roads and bridges. The commission is required to periodically review this information, submit a report on the condition of the transportation system to the Legislature in odd-numbered years, and post condition information on the transparency, accountability, and performance website required under HB 2017. The commission has previously approved the uniform standards required by HB 2017 (codified at ORS 184.657) and has delegated to ODOT the task of posting condition information and developing the report. ODOT further recommends that the commission also delegate to ODOT the task of submitting this report to the Legislature. ODOT would still provide the report to the commission, and the commission would still provide oversight of the system condition report through the conditional gas tax increase reporting process required under Section 45 of HB 2017.

Winter Recreation Advisory Committee membership

ORS 802.350 requires that the Winter Recreation Advisory Committee be made up of seven voting members appointed by the Oregon Transportation Commission. ODOT recommends delegating these appointments to the director.

Temporary administrative rule process

In order to facilitate expedited rulemaking in exigent circumstances, in May 2021 the commission approved a change to administrative rule processes that allows ODOT to file temporary administrative rules with the Secretary of State after approval by the Chair. The commission retained the ability to review and approve the temporary rule at its next public meeting. ODOT recommends formalizing and memorializing this authority in the delegation order.

Attachments:

- Attachment 1 – *Delegation Order*



Oregon Transportation Commission Delegation Order

	DELEGATION ORDER NO. OTC - 01	PAGE NO. 1 of 2
SUBJECT	EFFECTIVE DATE	SUPERSEDES
Authority delegated from the Oregon Transportation Commission to the Director of the Oregon Department of Transportation	APPROVED SIGNATURE Approved by OTC at meeting	

The Commission delegates the following authorities to the Director pursuant to ORS 184.635. The Director may further delegate these delegated authorities to the appropriate managers within the Department consistent with the Delegation Policy Org 05 as amended on March 15, 2018.

1. The authority to carry out the administration, operations, and management functions of the Department and the authority to implement plans, policies and actions approved by the Oregon Transportation Commission and the authority to approve minor, non-substantive, plan amendments to Commission approved plans. [ORS 184.612, 184.614, 184.617, 184.633, 184.634, 184.689, 190.110, 279C.125, 366.320, 366.325, 366.330, 366.333, 366.335, 366.340, 366.576, 367.804, 367.806, 374.328, 377.640, 377.780].
2. General power to take any action necessary to coordinate and administer programs relating to highways, motor carrier, motor vehicles, public transit, rail, transportation safety, and other transportation related programs related to transportation. [ORS 184.617(2)].
3. Road authority for all state highways. [ORS 810.010, through 810.180, 810.214, 815.070, 818.200- 824.220, 366.205, 377.835].
4. Establish the manner and enter into operating agreements for passenger transportation services. [ORS 184.705].
5. Establish maintenance standards for roads for intergovernmental road maintenance agreements. [ORS 366.574].
6. By mutual agreement with counties, locate, improve and maintain select county roads or public roads to be adopted as a state highway by the Commission. [ORS 366.290].
7. Enter into agreements with the federal government for the regulation, control and removal of signs within or adjacent to the Interstate and Federal-Aid Systems as described in Section 131, Title 23 USC. [ORS 377.835(6)].
8. Establish methodology used to calculate motor vehicle fuel tax. [ORS 319.417].

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9. Administer the state transportation safety programs developed in consultation with the Transportation Safety Committee and approved by the Commission. [ORS 802.310].
10. Allocate planning funds and execute relevant intergovernmental agreements with Metropolitan Planning Organizations (MPOs) in accordance with Federal Highway Administration Requirements. [23 USC 134(a)].
11. General supervision and control over the construction, improvement, maintenance, operation and administration of highways including the selection of materials and letting of contracts. [ORS 366.205(1-2)].
12. Select and designate a system of state highways including the designation by name and point of beginning and end, the classification of secondary routes, and the selection, vacation, and abandonment of state highways consistent with policy set by the Commission. [ORS 366.220]
13. Execute Right of Way acquisitions and exercise of the state's power of eminent domain as necessary. [ORS 366.320, ORS 366.340].
14. Select and establish primary and secondary state highways, including the authority to set layout, location, alteration, relocation and realignment of state highways consistent with policy direction set by the Commission. [ORS 366.215, 366.295].
15. Construct, maintain, operate and improve state highways, consistent with policy direction set by the Commission selected and designated by the Commission. [ORS 366.220, 184.617(1)(i)(E)].
16. Conduct a study on the historic, scenic, and cultural values of the state highway system with advice from a volunteer citizen committee selected by the Commission. [ORS 377.100].
17. Provide for the rehabilitation, restoration, maintenance and preservation of historic and scenic highways designated by the Commission and post signs necessary to inform motorists of the location and significant features of the highway or structure. Signs posted must be consistent with the standards adopted by the Commission under ORS 810.200. [ORS 377.105].
18. Install railroad-highway grade crossings signs, signals, gates, and other protective or warning devices consistent with the standards adopted by the Commission under ORS 810.200. [ORS 810.210].
19. Designate staff to collect highway funds and turn those funds over to the State Treasurer. [ORS 366.510, 366.205(3)].
20. Establish priorities for snow removal from designated winter recreation parking locations (Sno-Parks) and enter into agreements for the enforcement of the Sno- Park parking permit required in ORS 811.590. [ORS 810.170].
21. Appoint a rules coordinator and take all necessary administrative action including signing documents and filing adopted, amended, or repealed rules with the Secretary of State.

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Appointment of rules coordinator is to be filed with the Secretary of State per ORS 183.330. [ORS 183.330, 184.619, 823.011 824.110, and OAR Chpt. 166, Division 500].

22. Execute leases or rental agreements for office quarters approved by the Department of Administrative Services. [ORS 276.428 and OAR Chapter 125, Division 120].
23. Enter into leases or rental agreements for facilities other than office quarters as described in OAR 125-120-0075. [ORS 184.689].
24. Implement standards for traffic control devices including marking and signing of highways adopted by the Commission under ORS 810.200. [ORS 810.200].
25. Maintain records of Commission meetings, transactions, and business. [ORS 184.612(9)].
26. Review flat fee rates for weight mile tax in each even-numbered year and make a recommendation to each regular session of the Legislative Assembly. [ORS 825.482].
27. In consultation with the Department of Administrative Services, determine the amount of fuel taxes paid for which persons are entitled to a refund. [ORS 184.643].
28. In coordination with other agencies, establish procedures for dedication of state natural areas where title is held by the State and are under Department management and control. [ORS 273.587].
29. Execute agreements for projects approved by Commission for the Innovative Partnership Program. [ORS 367.806].
30. Transfer funds to the Department of Aviation for aeronautic and airport transportation projects selected for funding from the Connect Oregon Fund. [ORS 367.086].
31. Develop and report to Governor on legislative, budgetary and administrative programs to support long range planning for transportation. [ORS 184.635(1)].
32. Approve changes to funding and construction contracts for projects in the Statewide Transportation Improvement Program under \$500,000,000. [ORS 184.617(1)(i)(A)].
33. Approve legal settlements for amounts less than \$1,000,000 and approve legal settlements for amounts between \$1,000,000 and \$4,236,000 with OTC chair consultation. For claims arising in eminent domain, approve legal settlements for amounts less than \$1,000,000 over the state's appraised value or complaint value and approve legal settlements for amounts between \$1,000,000 and \$4,236,000 over the state's appraised value or claim value with OTC chair consultation. Offer administrative settlements for temporary easements. [ORS 184.617, 35.346(2)].
34. Enter into written agreements related to any duty, function or service of the commission or the Department relating to transportation projects or transportation research. Enter into IGAs with

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local governments and local service districts to encourage cooperation maximize efficiency of transportation systems. [ORS 184.614, 184.617(1)(h)].

35. Hire staff deemed necessary to assist the Commission. [ORS 184.612(9)].
36. Maintain a website through the Department to display information about projects, system conditions, and other information. [ORS 184.661]
37. Coordinate with State Marine Board, Oregon Business Development Department, State Aviation Board, cities and counties and transit boards to develop modal plans for the movement of people and freight. For each of these plans include a list of projects to be completed over a 20-year period that can be completed with resources reasonably expected to be available. [ORS 184.617(d-e)].
38. Compile and keep current an inventory of real property in excess of operating needs of the agency. Review inventory periodically to determine disposition of property. [ORS 184.627].
39. Using the uniform standards developed **by the Commission** to describe the condition of infrastructure, post reports from cities, counties and ODOT on the internet and develop **and submit** report to the legislature and Joint Committee on Transportation ~~for Commission approval~~. [ORS 184.657].
40. Develop report to the Joint Committee on Transportation in 2019, 2021, and 2023 on the status of implementation of HB 2017, including the status of specific projects and work efforts. [Chapter 750 (2017 Oregon Laws) Section 45].
41. Conduct a study to determine the proportionate share that users should pay for highway operations, maintenance and improvements. [Chapter 750 (2017 Oregon Laws) Section 75].
42. Distribute funds for Commission approved projects and plans. [ORS 184.758, 367.617, 184.741-184.742].
43. Approve match requirements, execute agreements and distribute funds for Rapid Response Infrastructure Grant Program Projects selected for funding from the Safe Routes to Schools Fund. [ORS 184.741-742].
44. Approve all-terrain vehicle highway access routes. [ORS 821.055].
45. Adopt findings of compatibility with acknowledged comprehensive plans of affected cities and counties when granting design approval for a project [OAR 731-015-0075(7)] that is consistent with an OTC adopted ODOT facility plan per OAR 731-015-0065.
46. **Appoint members of the Winter Recreation Advisory Committee. [ORS 802.350].**
47. **After review by the commission chair, file temporary administrative rules with the Secretary of State, subject to review, approval and ratification by the commission at its next official public meeting. [ORS 184.619].**

9/2/2021