

# RUC PAYER COMPLIANCE EVALUATION

*2016 OReGO FAST  
Act STSFA Grant  
January 2018*

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## Executive Summary

The account managers providing services for the OReGO Program are responsible for collecting the tax revenue generated by the RUC Payers. The current compliance mechanism for RUC payers is removal from the voluntary program, except in the case of fraud, where the statutory penalty is a Class C violation. The current compliance mechanisms for account managers reside in the contracts under which they operate.

In order to evolve RUC into a more robust tax program that aligns with principles of good policy, it is important to strike a balance between the desired level of compliance and the costs of enforcement and intrusion. The outcomes of this project provide information to decision-making bodies to determine what RUC Payer compliance mechanisms should be included in future RUC legislation.

The primary objectives of this project were to:

- Refine account evaluation methods and business processes (in coordination with account managers) to reduce costs, thereby improving the program's net revenue;
- Analyze current evasion and enforcement mechanisms by identifying ways RUC Payers might evade payment and developing effective enforcement protocols to address those gaps; and
- Explore existing ODOT enforcement models and suggest alignment of existing resources within ODOT to further reduce program costs related to enforcement.



## Background

### ODOT Road Usage Charging and OReGO

In 2001, the legislature formed the Road User Fee Task Force (RUFTF). Its mission was to find an alternative source of transportation funding outside of fuel taxes. From this legislative body, the concept of road usage charge -- where volunteers pay for every mile they drive, rather than for every gallon their vehicles consume—came into existence. With the passage of SB 810 in 2013, the Oregon Department of Transportation (ODOT) was mandated to create and maintain a road usage charge (RUC) program. The resulting OReGO program became operational on July 1, 2015.

### 2016 FHWA FAST Act STSFA Grant

In 2016, ODOT was awarded a federal grant from the Federal Highway Administration (FHWA) under the Fixing America's Surface Transportation (FAST) Act Surface Transportation System Funding Alternatives (STSFA) program. ODOT has defined eight projects to meet the objectives in the grant and enhance the OReGO program.

The primary project objectives are to:

- 1: Expand the market
  - Expand technology options for reporting mileage
  - Manage the open market
  - Develop requirements for a manual reporting option
  - Streamline reporting and data sharing
- 2: Increase public awareness
- 3: Evaluate compliance mechanisms
  - Account manager
  - RUC payer
- 4: Explore interoperability

## Description of the “RUC Payer Compliance” subproject

One of the primary objectives of the 2016 OReGO FAST Act STSFA grant was to evaluate current and potential compliance mechanisms for Road Usage Charge (RUC) participants (“RUC Payers”) to advise decision-making bodies regarding a desired level of compliance and costs of enforcement. The manner in which ODOT proposed doing this was by researching compliance and enforcement mechanisms other agencies are currently utilizing. This offered a great opportunity to evaluate current program compliance, conduct a gap analysis, develop a compliance waterfall, and develop potential future methods of fraud detection and enforcement. The requirements identified through this evaluation resulted in the development of a compliance research paper and options analysis, which describes the evaluation of the overall program compliance and lists the potential solutions that the program could implement with Legislative approval.

RUC Payer Compliance aligned with several FAST Act Requirements, including implementation, protection of privacy, use of private third party vendors, ease of compliance, reliability and security of technology, user flexibility, decreased administrative cost, and ability to audit and enforce.

## Evaluation

### What Was Done

Planning for the “RUC Payer Compliance” subproject began on October 3, 2016. Evaluation began on December 30, 2016 and ended on November 22, 2017. The evaluation included current and potential compliance mechanisms, fraud detection, penalty enforcement, program compliance gap analysis, development of a compliance waterfall, and recovered mileage analysis. Current and potential compliance processes were mapped out and evaluated.

The requirements for potential compliance and enforcement were gathered from the evaluations conducted. These requirements filled in the gaps of each process analyzed. A research paper was developed that detailed the work that went in to the program evaluation and the resulting current and potential compliance and enforcement options. An options analysis was developed to list, at a high level, the results of the research paper. The research paper and options analysis are available for review if there is a future determination that the OReGO Program should become mandatory. It also provides the research and analysis for implementing a higher level of program compliance.

## STSFA Requirements

### Implementation

The RUC Payer Compliance project evaluated current program compliance and enforcement and analyzed the processes and procedures for gaps. A gap analysis led to requirements gathering and process mapping for a future state of compliance and enforcement. All of the research is listed and itemized in a RUC Payer Compliance Research Paper, which details all of the options that were developed for implementation should the current program become mandatory.

### Protection of privacy

Protection of RUC Payer privacy is a major concern that is addressed in the current and future state of the program compliance and enforcement. The project used strict guidelines developed by cross-referencing the SSAE16 standard. Program participants' private data is not collected by ODOT and the program account managers enforce privacy policies that are disclosed to, and agreed on, by participants.

### Use of private third-party vendors

Currently, the RUC Program uses two third-party vendors. The vendors were procured through the ODOT Procurement Office after going through a bidding process. After the vendors are procured, the RUC Program team conducted an account manager certification process to perform quality checks to make sure that the vendors meet the RUC Program requirements for managing volunteers. If the vendor uses a mileage reporting device, the device is also certified for use in the program.

One of the outcomes of the RUC Payer Compliance project is the adaptation of compliance and enforcement options that could potentially be used by third-party vendors. Options that were researched were recovered mileage, a future-state compliance waterfall, and account variance thresholds. These options could be implemented and used to provide a more refined and larger scale approach to overall RUC Program compliance and enforcement.

### Ease of compliance

Compliance in the RUC Program is enforced in a standard method for both RUC payers and account managers. Requirements have been identified and compliance and enforcement processes have been developed. Volunteer and account manager issues are discussed and analyzed daily and issues are addressed weekly with each program vendor.

During the analysis of the current program compliance methods, several additional options were identified that could make compliance easier for participants. Providing additional compliance options for participants in a future mandatory RUC Program could allow participants to become more proactive, for example, by using the recovered mileage option. The process for self-reporting recovered mileage has been mapped out and made efficient for participant and program use. Options for a reactive approach from participants have also been identified, such as, a more streamlined approach to penalties and a public service option for an alternative means of revenue collection for the RUC Program.

### **Reliability & security of technology**

The RUC Program employs both in-house and third party technologies to manage program participants and data.

In-house technology is developed and implemented within ODOT Transportation Application Development methodology. This methodology follows a strict process of system architecture mapping and ODOT review of the system requirements and implementation. The ODOT Security Unit validates the system for potential vulnerabilities and reviews each system.

Third party technology used in the RUC Program goes through a certification process that involves testing of the technology and approval of implemented technology. The ODOT Security Unit also has to review and approve the technology if it interfaces with any ODOT system. As part of maintaining reliable and secure technology, the RUC Payer Compliance mechanisms identified in the project will follow ODOT security guidelines if any new system requirements are implemented.

### **Flexibility: users select from multiple options**

There are multiple options available for RUC Program volunteers. Each volunteer has the option to choose between different account managers. The account managers have different mileage reporting options from which each volunteer can choose. There is a basic option, which only calculates mileage travelled, and there is an advanced (GPS) option which adds location differentiation services.

The technological differences between the basic (non-GPS) and the advanced (GPS) option present limited differences in compliance and enforcement, as the compliance mechanisms identified in the options analysis are technology agnostic.

Each account manager also offers different payment options. One offers a pre-paid "wallet." The other option is a post-payment model where RUC payers are billed after the fact.

### **Decrease Administrative Cost**

One of the overall goals of the RUC Payer Compliance project is to increase the efficiency of program compliance and enforcement to reduce administrative costs. By analyzing the current compliance and enforcement processes, gaps were discovered and new processes were developed that would address the current compliance and enforcement deficiencies and improve program continuity. New levels of fraud detection and enforcement alternatives ensure that revenue is collected and/or accounted for. The streamlined compliance waterfall adds a new and more efficient process for addressing penalties and providing an efficient method of enforcement.

### **Ability to audit/enforce**

The new compliance and enforcement processes have audit and enforcement procedures built in to them. The enforcement process has sequential steps that allow the RUC Program to trace account activity and audit it for program compliance. A variance threshold has been developed that can be used to determine when a RUC Payer's account needs to be audited.

## **Lessons Learned**

The outline below summarizes the OReGO team's lessons learned including challenges that had to be overcome.

### **Offer a public services option**

When researching and developing processes to collect revenue for a potential mandatory tax program, it is a good idea to try and ensure a level of equity among participants. Identifying options for participants who may be financially disadvantaged ensures program continuity and higher levels of compliance. Providing an option that allows qualifying delinquent accounts to make "payment" through a public service option may be one way to increase equity for some populations.

### **Confirm compliance partnerships before considering options**

Before starting work on implementing new compliance mechanisms, it is ideal to make sure that compliance partnerships (other sections of the Agency, or outside entities such as law enforcement or revenue departments) are identified and confirmed. Roles and responsibilities must be detailed and agreed to by all partners. This will reduce the risk of assumptions that may turn out to be unrealistic or unfeasible, and will enhance the success of the implementation.

### **Compliance mechanisms would have to be legislatively approved**

Developing future program requirements and mapping out processes regarding a mandatory tax program need to be researched, while keeping in mind that potential options would need to be approved by the legislature. Identifying feasible levels of enforcement and keeping overall costs low will allow for more viable options for the legislature to consider.

### **Complete program compliance and enforcement is possible but not feasible (spending dollars to chase nickels)**

Implementing complete program enforcement is a possibility and it is easy to identify strict rules and policies to collect revenue and enforce penalties. There is a line that needs to be drawn regarding compliance and enforcement and fiscal impact on the program. There is a possibility that implementing particular compliance and enforcement mechanisms could cost more than the program revenue it generates. It is important to find a balance and make sure that the compliance and enforcement policies are fiscally realistic.

To ensure that compliance and enforcement are balanced, the RUC Payer Compliance project team researched options that would allow for the program to determine when and how program compliance is enforced. A good example of this is an account variance threshold. With thresholds for account variance, the RUC Program has a good indication of when it is appropriate to pursue enforcing compliance on participants.

### **Clarify administrative rules for agency needs**

Identifying the administrative rules required for each compliance mechanism and where they intersect with agency needs should be conducted. This will help clarify the guidelines and how developing new requirements for program compliance needs align. This will depend, to some extent, on legislative action.

### **Challenges related to RUC Payer compliance and ownership identification (vehicle transfers, sales, ownership types, fleets, tax exempt)**

There were some challenges presented to the project regarding various levels of ownership identification. Tracking a vehicle through independent vehicle transfers, sales, fleets and tax exempt statuses adds complexity to the RUC Payer Compliance project. If the program becomes mandatory, addressing these issues will require close coordination with DMV.

**Proactive compliance is strongly encouraged (easier than enforcing non-compliance) pre-paid wallet, recovered mileage, etc.**

Providing proactive methods for participant compliance makes program management more efficient. It becomes more difficult when program participants are reactive and need to be penalized. Offering proactive solutions to program compliance like a pre-paid wallet or recovered mileage could help participants and the RUC Program avoid the compliance waterfall almost entirely, making enforcement much more efficient.

### **Developing program penalties at the right level**

A mandatory tax program should have the right penalties to allow for a higher level of program compliance. If a participant is penalized too highly for offenses that seem minor or trivial, the participant may feel it unnecessary to commit to program compliance. This could result in the program having to go to even more extreme lengths to collect revenue, which could jeopardize the fiscal feasibility of collecting the delinquent revenue.

## **Conclusion and Next Steps**

The items identified are presented so they align with the FAST Act requirements contained in the FHWA Grant Agreement.

A quantitative assessment of possible increased revenue through a reduction of tax evasion was conducted by using the OReGO Financial Model. The financial model is a tool created for the OReGO Program that analyzes multiple variables and scenarios to determine what a mandatory program could look like. One of the variables is compliance options. The following are the results of that assessment:

- **Pre-enforcement process:** Warning notifications consisting of a formal letter and email will be generated and sent by the account manager simultaneously. The purpose of these notifications is to provide a notice that the account is in violation and that failure to address the violation could result in a penalty assessment and further collection attempts. Currently the program does not have enough data to assess the effectiveness of this process because it is managed by the account managers. In future implementation, this step in the enforcement process could become a requirement, ensuring that the account managers report the effectiveness of this step.
- Implementing a compliance waterfall approach to decrease the amount of bad debt not collected or paid.
  - **Soft collections process:** Enforced by ODOT for the

state account manager. Each month, the account manager sends a debt transfer to ODOT for any invoices unpaid for 45 days or more. ODOT initiates the soft collection process. For the pilot program, the soft collections process started in April 2017 and it has successfully collected on average 74% of the amounts past due without formal collection efforts and expenses.

- **Issuing penalties:** After issuing warnings, if requirements are still not met, the enforcement process should assess and calculate penalties. A statement that clearly describes the penalties, available appeal options, and response timeframes should be issued. An example of an assessed penalty would be a \$25 charge (per ORS.383.035) added to the total amount if not paid by the due date, along with an administrative fee. No data available because this step is not in place for the pilot program. The OReGO Financial Model estimates a success rate of 96.9% of debt will be collected if all steps are in place.
- **Collecting:** The enforcement process needs to have a way of collecting assessed penalties or acquire a means of revenue collections through a third party to keep the program compliant with tax collection requirements. The OReGO Program would follow the current process that the ODOT Fuels Tax System uses for collection. The enforcement threshold amount is set to \$100 minimum, which is the outstanding balance due, plus any additional penalties and administrative fees. No data is available because this step is not in place for the pilot program. Further research would need to be done to implement this option.
- **Writing off debt:** Some participants will not pay invoices, even after warning notifications are issued and penalties and collection practices are levied. The system must have a means to write-off unpaid participant fees. The OReGO Program will follow the current process that the ODOT Fuels Tax System uses for writing off debt as well. No penalties or administrative fees will be assessed.

A qualitative assessment of increased business efficiency with new compliance procedures by:

- Providing a gap analysis of current processes and procedures
- Identifying business requirements

- Developing new processes with identified business requirements with emphasis on a future state
- Developing a compliance waterfall
- Researching compliance and enforcement processes and procedures from other state agencies

An analysis of how improving compliance mechanisms helped reach the STSFA objectives of increased auditing and compliance/enforcement and decreased administrative costs by:

- Developing RUC Payer account variance thresholds for audit purposes
- Developing enforcement options for capturing revenue
- Providing options for program equity regarding revenue
- Developing cost effective options for collecting revenue through penalty enforcement and service programs

A timeline, estimated or actual, for implementing improved compliance mechanisms, which will require legislative action:

- Time to implement would be 18-24 months following adoption of legislation
- Generally, most legislative policy decisions resulting in legislation occur in odd numbered years

Findings and recommendations related to compliance challenges and opportunities by:

- Researching other State agencies and their compliance and enforcement policies
- Researching other State mandatory tax programs

The RUC Payer Compliance project allowed the OReGO Program to evaluate current compliance and enforcement policies and identify potential gaps in the existing system. A combined effort of forecasting future needs of a RUC Program in a mandatory environment along with researching other state agencies' methods of collecting revenue culminated in the development of a RUC Program Research Paper and Options Analysis.

The Research Paper and Options Analysis will provide guidance and recommendations to the policy makers regarding RUC Program compliance and enforcement options in both a granular and high level document. These documents will be useful if the RUC Program should ever become mandatory and the legislature is faced with integrating revenue compliance and enforcement into the program.