

Draft Fiscal and Equity Impact Statement

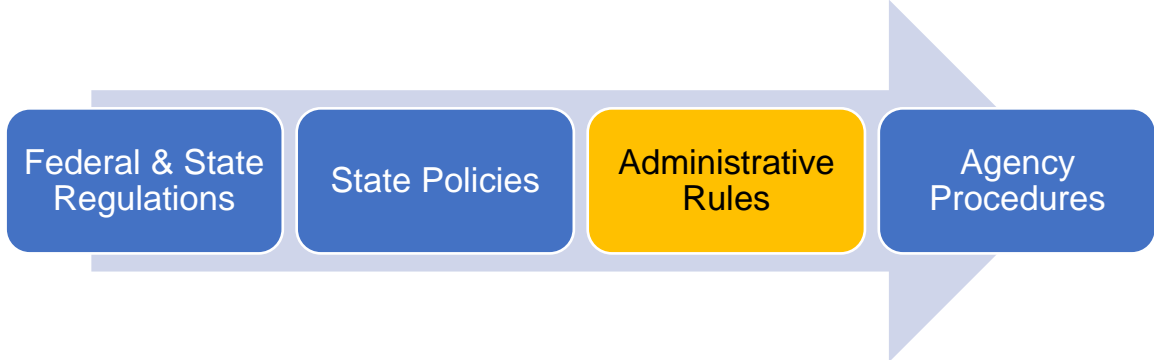
Statewide Toll Rulemaking Advisory Committee (STRAC) November 2023 Meeting Materials

Date Updated: November 10, 2023

Statements on the impact of Oregon Administrative Rules (OARs) on equity and fiscal-economic impacts are a required part of rulemaking in Oregon ([link](#)). To inform the development of these statements for the toll rulemaking process, the STRAC will review a draft and provide input at their November 17 meeting.

Because the requirement to include a statement on equity is relatively new, this document includes examples from ODOT and other state agencies – see below, after the draft statements. For the fiscal and economic impact statement, the Secretary of State provides a outline checklist ([link](#)).

As a reminder, administrative rules exist on a continuum between higher-level regulations and policies, and more detailed agency procedures. The statements in this document will describe impacts of the details involved in the rules, which do not include specific toll rates or revenue allocations. These will be evaluated and identified at the project level (for example, [I-205 Toll Project Draft Environmental Assessment](#)).



Next steps

Input from STRAC’s November 2023 meeting will be used to develop the notice and set of rules that are planned to be published on the Secretary of State’s website in early 2024. This will begin an official public comment period that will lead to a decision at the Oregon Transportation Commission on the final rules, which is expected to be in mid-2024.

DRAFT: Equity Impact Statement

Throughout the toll rulemaking process, ODOT has centered around the needs and experiences of equity communities¹ to ensure Toll Program operations advance equity goals. ODOT convened the Statewide Toll Rulemaking Advisory Committee (STRAC) in January 2023 to help develop Oregon Administrative Rules that determine how customers interact with the toll system and how toll rates are set, adjusted, and monitored. To ensure that the issue of racial equity was adequately addressed, the Department was intentional in the membership of the committee. This resulted in establishing a committee that includes:

- Members of diverse racial, ethnic, genders, orientations, abilities, and age backgrounds.
- Geographic diversity which included voices from throughout the state.
- Small business owners and trucking operators, especially those who are woman- or minority-owned.
- Perspectives from outside of Oregon that have a history of interacting with tolling.
- A past and an active Equity & Mobility Advisory Committee (EMAC) member.
- Voices from the public health and education community, who have not been traditionally included in transportation discussions.

The package of rules outlines and updates how tolling will be implemented across the state have been reviewed and edited with a focus towards equity. To determine the equity impacts of the toll rules, ODOT worked with the STRAC to identify the persons and groups that are subject to the rules, the groups that are likely to be most impacted by the rules initially, and the impacts the rules will have on equity. There are currently three planned toll projects: the I-205 Improvements Project, and the Interstate Bridge Replacement Project, and the Regional Mobility Pricing Project. These projects are located in the Portland Metropolitan area and the studies completed for these projects have helped to inform rulemaking about the groups most likely to be affected by these tolling projects. The rates for the proposed for these projects are not included in this package of rules.

We reached out to numerous community-based organizations (CBOs) requesting additional voices from diverse perspectives on the STRAC. Their feedback was that it

¹ Building from the [Oregon Toll Projects' Equity Framework](#), for direction in this rulemaking process we identified the following groups as equity communities: people experiencing low-incomes, racial and ethnic minority populations, Tribal governments, older adults, children, woman and minority-owned small businesses, persons with limited English language proficiency or who speak non-English languages, and persons living with a disability. Additionally, we were intentional about geographic diversity to reach Oregon's rural communities.

was a tough ask to get members from their community to commit to a rulemaking process. Therefore, to ensure that equitable outcomes are prioritized throughout the rulemaking processes, we have been engaging with them regularly via a parallel and intersecting track of equitable engagement. This includes a discussion group series with representatives from Community Based Organizations (CBOs) that serve equity communities and discussions with Community Engagement Liaisons (CELs). Input from this engagement has been delivered at each monthly STRAC meeting to deepen members' understanding of equity community needs.

Equity and Mobility Advisory Committee (EMAC) continues to provide clear direction and remains a strong advocate and partner to advance equity in rulemaking. In their 2022 recommendations to the Oregon Transportation Commission (OTC), EMAC advised ODOT and the OTC to consider discounts or exemptions for specific customers (public transit, emergency and non-emergency medical vehicles, and vanpools), being thoughtful about an inclusive enrollment process, and protecting customer data that is shared with ODOT. ODOT and EMAC shared this guidance with the STRAC in a joint committee meeting in July 2023, and EMAC's input in full and subcommittee meetings throughout the fall directly shaped the final toll rules.

Throughout the STRAC rulemaking process to-date, ODOT has made the following changes or commitments in our approach to the toll system:

- Revised our approach to add additional timing for resolving toll bills before mandatory compliance steps would take place.
- Offering a cash-based option for customers and physical locations where people can enroll and pay their toll bills.
- Being interoperable with Washington's toll system on day one and pursuing agreements with other existing toll operators (e.g. E-ZPass) to simplify enrollment and payment processes for customers.
- Reinforcing our commitment to state law requirements that limit access to customer data from tolling. We will not be taking and storing pictures of people. Information will only be shared with law enforcement if there is a court order.
- Offering discounts to individuals experiencing low incomes.
- Limiting exemptions to only what is required (transit and military) and necessary (emergency response and highway safety), to keep the toll rates as low as possible for all.

DRAFT: Fiscal and Economic Impact Statement

Impact on state agencies, units of local government, and members of the public that may be economically affected by the adoption of the rule include:

- The rules provide for toll-free passage through exemptions for the following customers: members of a federally-recognized Tribal nation, employees working on

behalf of these Tribal governments, public or non-profit transit (bus, shuttles, paratransit, and on-demand service), active military members, police, fire, ambulance, and ODOT incident response vehicles.

- The rules provide for a discount program for customers with incomes at 200% or below the Federal Poverty Level. Traffic and revenue impacts analysis, as well as a description of the cost to administer a low-income toll program, was conducted to help determine the process and income-threshold for the rules ([link](#)).
- State agencies, local governments, or members of the public that do not fall within these exempted or discounted categories would have to pay the toll for use of the tolled facility. The rules identify the process to enroll for a tolling account, which would provide the customer with the lowest toll rate. Unregistered customers may pay a higher rate or incur additional fees.
- Fees for invoices (\$5.00), mailing (\$2.00 per statement), returned check (\$35.00), and civil penalties (\$50.00 per toll invoice) are identified in the rules, as well as the timing and process for administering these fees.
- The cost for a transponder will be minimal (under \$5); the toll technology will capture license plates for users without a transponder.
- The application fees for a new, privately funded toll project are identified as \$40,000.
- The rules do not establish tolling rates by time of day or vehicle type. This will be a future process that is identified per project and adopted into the rules.
- Although the rules do not identify specific toll rates, the system for toll rate setting and adjustments are identified in the rules. These will provide clarity to the public on how various goals are navigated for decision-making and how tolls will be reviewed and adjusted in the future.
- These rules provide guidance to ODOT to work with existing toll agencies to lessen the time needed to register for a new toll account if a customer already has one with another toll agency.

Impacts on small business by the adoption of the rule include:

- Time needed to register for a toll account; if an account does not already exist with an interoperable tolling agency.
- Administrative costs for fleet management and addressing possible errors in future billing. ODOT intends to have an open, easy to access system to resolve any billing errors or payment issues.
- These rules are statewide, therefore any small business within Oregon that would have their goods, employees, or customers travel through a tollway would be impacted.
- Small businesses have been involved through multiple members on the STRAC. Some representatives were small business owners themselves or representing organizations that include small business owners.
- When conducting outreach to the trucking community, ODOT connected with small businesses owner and operators and their feedback led to changes within the rules.

For example, ODOT relaxed the timing on when the first invoice, which includes fees, would be sent for non-payment of tolls.

More detailed fiscal and economic impact studies for tolling will be conducted at the project-level. Because this toll rulemaking effort did not include toll rates, these types of detailed studies can't be generated from this package of rules.

A housing cost impact statement is not applicable to this rulemaking effort.

RESEARCH: Equity Impact Statements

Agency & Rulemaking Topic	Equity Statement
<p>Oregon Department of Transportation (ODOT)</p> <p>Community-benefits contracts</p>	<p>The Department is committed to enhancing racial equity and advancing apprenticeship and training opportunities for all workers in the construction trades, including Black, Indigenous, and People of Color (BIPOC) and other minority (generally referred to as “Minority”) workers.</p> <p>The Department will establish goals and aspirational targets to increase hiring and apprenticeship of Minority workers based on regional economic demographics and disadvantaged geographic areas. The use of Economically Distressed Zip Code Priority Hiring, an approved approach by FHWA, will enhance hiring opportunities for Minority workers on CBCs.</p> <p>Apprentices’ certification and availability, and other employment data will be used to determine appropriate steps to enhance apprenticeship and training opportunities for Minority workers.</p> <p>The Department will consider information such as characteristics of likely Minority candidates for recruitment into the trades, barriers to recruitment, effectiveness of recruitment strategies, retention, and graduation rates. This rule positively promotes apprenticeship and training programs to support the long-term Minority workforce needs in the construction trades.</p> <p>Adoption of this rule is expected to improve racial equity in the State and will better align ODOT’s strategy on advancing racial equity with other successful efforts in the region (e.g. City of Portland).</p>

<p>Department of Administrative Services (DAS)</p> <p>Elimination of appraisal incurred by a state agency for transactions involving the federal government</p>	<p>Adoption of these rules are not likely to affect Racial Equity in this state because no other interests or communities are likely to be affected by the rule changes. The proposed amendment will eliminate the cost of an appraisal incurred by a state agency for transactions involving the federal government.</p>
<p>OHA</p> <p>Pot and hemp testing</p>	<p>The adoption of these rules will impact all cannabis businesses and consumers of cannabis in Oregon. The rules will increase the cost of doing business in Oregon due to the added cost of new testing requirements being adopted. To help offset a large cost increase, rules pertaining to sampling were modified so the cost increase associated with additional testing was not as large. Without these changes and the additional rule changes made, the impact would have been much greater. Prior to forming a rules advisory committee, a workgroup was formed to engage small business and cannabis business associations to determine pathways that would help mitigate the impact to various communities. Another impact of these rules on consumers of cannabis includes additional testing requirements intended to further protect consumers from possible contaminants in cannabis.</p>
<p>Optometry</p> <p>COPE Pain courses for CE requirements</p>	<p>COPE offers a variety of on-line and in person trainings that are open to all optometry licensees.</p>
<p>Oregon Medical Board</p> <p>OHA masking and vax rules</p>	<p>The proposed rule clarifies that licensees of the Oregon Medical Board must take certain public health actions within their practice of medicine, podiatry, or acupuncture to comply with the OHA administrative rules. COVID-19 has had a disparate impact on communities of color. The proposed rule serves to implement public health measures throughout the state in order to combat the spread of the virus. Therefore, the proposed rule will favorably impact racial equity in the state.</p>
<p>Oregon Medical Board</p> <p>Board member compensation</p>	<p>The proposed rule is implementing HB 2992 (2021) which was intended to reduce systemic barriers to participation in state boards by increasing the daily compensation rate for time spent performing board duties. The proposed rule will favorably impact</p>

	<p>racial equity by increasing the preparation day compensation board members receive.</p>
<p>Oregon Medical Board EMS advisory committee requirements</p>	<p>The Oregon Medical Board’s EMS Advisory Committee includes three Oregon-licensed EMS providers. Currently, an EMS provider who resides across state lines would not qualify to serve on the Committee. The proposed rule aims to increase the potential pool of candidates by allowing Oregon-licensed EMS providers who reside within 50 miles of the Oregon border to be eligible to serve on the EMS Advisory Committee. This increased candidate pool may include EMS providers from communities of color or lower socioeconomic areas. Diversifying the voices on the committee provides opportunity for more viewpoints and experiences, which may lead to better recommendations.</p>
<p>Oregon Medical Board Expedited Partner Therapy for Sexually Transmitted Disease</p>	<p>Sexually transmitted infections disproportionately affect those with low health care access, often minority communities. The proposed rule will provide treatment options for partners with sexually transmitted chlamydia and gonorrhea infections who may not be available or agreeable for direct examination. The proposed rule will favorably impact racial equity by supporting greater access to health care in these situations.</p>
<p>DCBS Work Comp Workers’ compensation medical fees and payments, medical services, and interpreter services</p>	<p>The proposed increase to maximum allowable fees for language interpreter services, and the proposed streamlining of interpreter bill processing, should better compensate professional interpreters and promote access to effective medical care for workers who have limited English proficiency (LEP). While LEP is not determined by race, the greatest demand in Oregon currently is for Spanish-speaking interpreters, and the following information from Oregon’s State Health Assessment 2018 suggests some correlation between LEP and race and ethnicity: “Among people living in Oregon in 2016, 76% identified as white, 13% Latina(o), 5% Asian and Pacific Islander, 2% African American, 1% American Indian and Alaska Native, and 3% two or more races. The racial and ethnic distribution varies by age: 80% of adults (>18 years) are white and 10% are Latina(o); by contrast, 64% of children (<18 years) are white and 22% are Latina(o). Every county has become more diverse since 2013, with the largest increase in Asian populations.”</p> <p>Other proposed rule changes do not appear to have any effects on access to workers’ compensation services or fees based on</p>

	<p>race or ethnicity, but the agency invites public comment about possible impacts.</p>
<p>DHS Vocational Rehab Vehicle insurance repair modification and purchase</p>	<p>Populations or group that would be negatively impacted were identified by diverse individuals in the Record Advisory Committee and Program staff with knowledge of groups. Reports, publications and data available to the public also informed this conversation.</p> <p>Persons residing in geographically remote areas in the state. It may take longer to complete the process.</p> <p>Tribal members experience disabilities at higher rates than other populations (from data a member viewed) in Oregon.</p> <p>Persons who use English as a second language or non-English speakers.</p> <p>With respect to the LGBTQ population – a person who is trans may feel uncomfortable in settings that these modifications take place and talking about modifications.</p> <p>Populations that are historically living in poverty (especially those with incomes less than \$10,000, trans, persons with disabilities), those who are culturally impoverished, or other oppressed groups, and may have another factor (i.e., being Native American or non-dominant culture). Persons living on Social Security benefits. There is more fear discussing their needs and they are less inclined to discuss their needs.</p> <p>Persons who own assets on public assistance programs may have this ownership. State benefit programs (Temporary Aid to Needy Families, the Self-Sufficiency Program, and the Office of Developmentally Disabled Services may allow one vehicle that will not impact their benefits.)</p> <p>Single mothers (as well as single fathers, parents or families living in poverty) with children have a difficulty maintaining vehicle. The purchase process may not adequately consider the size and makeup of the family.</p> <p>This group is disproportionately affected by their needs (child care, time to locate, secure and maintain child care and child care alternatives, times available for child care, transport of children to and from child care, travel time to and from child care), time of job</p>

and opportunities for employment, cost of poverty, cost of transportation, poverty wages, and survival jobs while seeking services from the Program. Without childcare, the single mothers (as well as father, parents or families) can probably not work. Disruptions in childcare provision create additional conflicts.

Additionally, there may be conflicts among tasks of every day life, a possible survival job (one to bring in wages while receiving services but not related to a career or stable, competitive integrated employment) and the need to schedule meetings with qualified Occupational Therapist or Physical Therapist for evaluation of disability related needs and vehicle modification for transportation to overcome a disability related barrier to employment.

Persons with intellectual or developmental disabilities.

These individuals with cognitive deficits or physical limitations may not have the capacity to drive. It is unclear that these individuals have knowledgeable supports who understand the steps to this process and help accomplish the tasks in the process.

Persons with physical impairments who might be in greatest need of modified vehicles.

Possibly persons with mental illness. Disproportionately impacted by the policy. (Unclear about the impact.)

While these issues affect many groups of persons with disabilities served by Vocational Rehabilitation, there is evidence that persons in the non-dominant or non-majority culture receive fewer services and are less likely to be successfully rehabilitated. This intersection of characteristics - type of disability, culture, ethnicity or race, geographic location, gender, parent, poverty - may result in greater impact on persons with several characteristics that have been identified.

Throughout the conversation the participants provided recommendations for Program actions to counter the impacts or better serve the individuals identified as impacted. Many of the recommendations were related to staff training on this policy and process. Examining data for trends was also discussed. Building the statewide pool of qualified occupational or physical therapists

to conduct evaluations and vendors to complete modifications was also important. A few examples include:

The documents for this process documents must be translated to other languages. These documents should outline the rules and clear Program expectations. The documents must be available in non-English language versions or formats to be accessible. The Program should assure that the translations are accurate.

It was recommended that advocates could be identified to accompany Vocational Rehabilitation clients who are uncomfortable in new situations for securing services. This may be helpful in the process of vehicle modification.

Training related to the rule and the procedures that implement the rule is seen as a very important key to making the process a success. Very specific training recommendations were generated during the discussions. The training is in development and these suggestions will be very helpful to the training effort.

Data has been requested to start a baseline of characteristics of persons receiving these services. Periodic review of this data may be useful in identifying and understanding inequities in the provision of services.

Per Diem Compensation and Expense Reimbursement for Oregon Potato Commission Members

Adoption of this rule will have no adverse impact on racial equity in this state.

Toll Monitoring / Reporting	WSDOT	TXDOT	CO E470	IL Tollway	VA I-66	MnDOT	LA Metro	San Mateo Express
Toll Finance and Operations								
Total trips	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Total transactions	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Usage rate of transponder/account vs. all customers	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Toll rate per transaction, average	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Toll rate per transaction, average for low-income toll program user								
Revenue (full list of revenue sources)	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Expenses (full list of expense types)	Yes	Yes	Yes	Yes	Yes	Yes		Yes
Administration cost (cost to collect)	Yes							
Average daily transactions				Yes				Yes
Transactions - geography (rural and urban)				Yes				
Credit rating for bonded facility		Yes						
Consultant contracts				Yes				
Account Types								
Payment by account type (plate, transponder, etc.)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Discount/exempt accounts (total number enrolled)	Yes						Yes	Yes
Civil penalties / violators	Yes					Yes		Yes
HOV trips	Yes				Yes		Yes	Yes
Cash-based payment received (# of customers)								
Trips over \$40					Yes			
Outreach and Customer Service								
Notifications sent (mail, text, phone, and email)	Yes							
Customer survey results	Yes		Yes					
Outreach efforts (narrative and numbers)	Yes		Yes					

Toll Monitoring / Reporting	WSDOT	TXDOT	CO E470	IL Tollway	VA I-66	MnDOT	LA Metro	San Mateo Express
Facility Performance – Travel								
Travel time, hourly - highway	Yes	Yes	Yes	Yes	Yes			Yes
Travel time, hourly - arterials	Yes				Yes			
Travel time, reliability						Yes		
Traffic volume, hourly - highway	Yes	Yes	Yes	Yes	Yes			
Traffic volume, hourly - arterials	Yes				Yes			Yes
Travel speed, hourly and average	Yes	Yes	Yes	Yes	Yes			
Travel and traffic - commercial vehicles				Yes				
Travel and traffic - passenger vehicles				Yes				
Travel and traffic - low-income toll program customers							Yes	
Facility Performance – Other								
Safety - fatality / crash rate		Yes						
Safety - fatalities and crashes per year		Yes						
Preservation - pavement condition		Yes						
Preservation - statewide bridge condition score		Yes						
Congestion - urban congestion		Yes						
Congestion - rural reliability index		Yes						
Other								
Local mitigation projects (bike, walk, EV, air quality)			Yes					
Safety - improvements			Yes					
Transit boardings and travel times, on highway	Yes					Yes	Yes	Yes
Income, employment and housing trends (census, not from user data)	Yes	Yes		Yes				
Tollway modeling assumptions (VOT, operating costs, diversion, etc.)				Yes				
Telecommuting projection				Yes				