

# Draft Toll Rules: Toll Rate Setting, Adjustments, and Vehicle Classification

Statewide Toll Advisory Committee (STRAC) October 2023 Meeting Materials

Date Updated: October 20, 2023

**Blue highlighted = state law**

**Purple highlighted = existing state rules (OARs)**

## ESTABLISHING PROJECTS, RATE SCHEDULES, AND ADJUSTMENTS

**731-040-0030**

**Fees for government or private entity toll project applications**

- (1) A unit of government may propose a tollway project at any time. The Department will not assess an administrative fee to evaluate proposals from a unit of government.
- (2) A private entity may propose tollway projects at any time. The Department will charge an administrative fee of \$40,000 to review a tollway project proposed by a private entity.
- (3) Fees charged for review of proposals are deposited in the Toll Program Fund.
- (4) The department may utilize a competitive process in soliciting or evaluating proposals from private entities.
- (5) A tollway project proposal submitted for consideration under the Oregon Innovative Partnerships Program (OIPP), ORS 367.800 to 367.826, is not subject to OAR 731-040-0030 (Fees for government or private entity toll project applications).

Statutory/Other Authority: ORS 184.619 & 383.015

Statutes/Other Implemented: ORS 383.015

History:

DOT 5-2012, f. & cert. ef. 7-19-12

DOT 3-1997, f. & cert. ef. 12-29-97

**731-040-0040 (previously 731-040-0050)**

**Review process for toll projects submitted by government or private applicants**

(1) A tollway project proposal submitted for consideration under the Oregon Innovative Partnerships Program (OIPP), ORS 367.800 to 367.826, is not subject to OAR 731-040-0040 (review process for toll projects submitted by government or private applicants).

(2) When reviewing a proposal to authorize a tollway project, the Commission must consider the criteria listed in ORS 383.015, which include:

- a. The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;
- b. The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general;
- c. The extent to which funding other than state funding is available for the proposed tollway project;
- d. The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the Toll Program Fund;
- e. With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:
  - i. The relative importance of the proposed tollway project compared to other proposed tollways; and
  - ii. Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects; and
- f. The effects of tollway implementation on community and local street traffic.

(3) In addition to these factors, the Commission shall consider:

- a. The sufficiency of the funding plan for tolling and how it will cover the short- and long-term costs of the infrastructure improvement, as required by law and financing obligations, including: the initial capital outlay, cost of operating the tolling program, and revenue needed to cover long term maintenance, preservation, operations, and administration functions. This must include funding sources and relative funding shares, as well as analysis of the viability of the project if tolling does not move forward. Reasons for not pursuing tolling must verify how other funding sources will be impacted if the project still moves forward.

- b. If the proposal includes variable rate pricing to manage congestion, how the proposer evaluated the level of expected congestion relief in relation to state performance goals and standards. Evaluate if appropriate levels of congestion pricing alone can reasonably manage travel demand, prior to adding new throughway capacity, such as the addition of new through travel lanes.
- c. The proposer's plan for how pricing will be paired with other actions to address roadway congestion holistically. For example, the use of ITS technology, access control and management, increasing multimodal options and implementing other demand management tools.
- d. The proposer's analysis on how road pricing as a strategy will limit or reduce future vehicular travel demand from planned land use development.
- e. The proposer's public engagement plan that displays how the project will collaborate with local communities and transportation service providers.
- f. The proposer's plan for how the project will address equity in the design and implementation of road pricing. Equity efforts must focus on both "process equity" and "outcome equity," which are defined as follows:
  - i. Process equity means that the planning process, from design to post-implementation monitoring and evaluation, actively and successfully encourages the meaningful participation of individuals and groups from historically excluded and underserved communities.
  - ii. Outcome equity means that the toll or roadway pricing project will acknowledge existing inequities and will strive to prevent historically excluded and underserved communities from bearing the burden of negative effects that directly or indirectly result from the priced projects, and will further seek to improve overall transportation affordability, accessible opportunity, and community health.

(4) A proposer shall address all of the above criteria in each proposal and submit it to the Department to review for completeness. Within 45 days from receiving the proposal, the Department will determine whether or not the proposal is complete.

(5) If the proposal is deemed complete, the Department will conduct an analysis of the proposal and present those findings to the Commission.

(6) As required by [ORS 383.015](#), no tollway project shall be authorized unless the Department finds that either:

- a. Based on the Department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the

contribution of additional public funds; or

- b. The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.

- (7) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing. The commission's authorization for further study shall not include an application of the state land use goals and shall not be a land use decision.

Statutory/Other Authority: ORS 184.619 & 383.015

Statutes/Other Implemented: ORS 383.015

History:

DOT 5-2012, f. & cert. ef. 7-19-12

DOT 3-1997, f. & cert. ef. 12-29-97

#### **731-040-0041 (previously 731-040-0055)**

#### **Review process for toll projects on Interstate Bridges**

- (1) This rule applies to all proposals to establish tolls on an interstate bridge that is or will be a state highway, including those submitted by the department, those submitted jointly with the department under the authority of ORS 381.010 (Columbia River bridges), ORS 381.098 (Snake River bridges), and those submitted jointly with the department under ORS 367.800 to 367.826 (the Oregon Innovative Partnerships Program).
- (2) Proposers shall pay fees, if applicable, identified in OAR 731-040-0030 (fees for government or private entity toll project applications).
- (3) Proposers shall address all criteria for the application and follow the review and approval process identified in OAR 731-040-0040 (review process for toll projects submitted by government or private applicants)
- (4) When reviewing a proposal to establish tolling and set toll rates on an interstate bridge that is or will be a state highway, the commission will consider:
  - a. Whether another state has any authority over the bridge;
  - b. Whether the proposal has been authorized or is expected to be authorized, by the governing body with jurisdiction over the proposal in the other state linked to Oregon by the bridge;

- c. Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposal in the other state, if any;
- d. Whether the proposer has legal authority to implement the project in the other state, and if not, the level of coordination between the proposer and the entity having such authority; and
- e. Existing bi-state agreements on tolls and tollway projects.

(5) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

Statutory/Other Authority: ORS 184.619, 381.010, 381.098 & 383.004

Statutes/Other Implemented: ORS 383.004

History:

DOT 5-2012, f. & cert. ef. 7-19-12

**731-040-0050 (previously 731-040-0052 and 731-040-0053)**

**Process for reviewing and approving the establishment of tolling and toll rates; generally**

(1) This rule applies to all proposals to establish toll rates on a state highway or highways, including those submitted by the department and those submitted by a public-private partnership created pursuant to ORS 367.806 jointly with the department.

(2) When reviewing a proposal to establish tolls and toll rates, the Commission will ensure that the following elements are addressed, as described in ORS 383.004:

- a. The amount and classification of the traffic using, or anticipated to use, the tollway;
- b. The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;
- c. The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;
- d. The location of toll booths or electronic toll collection systems to collect the toll for the tollway;
- e. The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;
- f. The amount of indebtedness incurred for the construction of the tollway and all expenses and obligations related to the indebtedness including, without

limitation, financial covenants, debt service requirements, reserve requirements and any other funding requirements established under the terms of any indenture prepared under ORS 383.225 (Revenue declaration or indenture) and any other contracts establishing the terms of the indebtedness, if any;

g. The value of assets, equipment and services required for the operation of the tollway;

h. The period of time during which the toll will be in effect;

i. The process for altering the amount of the toll during the period of operation of the tollway;

j. The method of collecting the toll; and

k. The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

(3) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing

(4) If the proposal is approved, the Commission will adopt a rate schedule. Rate schedules per tollway are identified in OAR ###-##-####.

(5) Rates should be set, as appropriate, sufficient to:

- a. Cover the operations, maintenance, preservation, and financing requirements of the tolling or congestion pricing system and administration;
- b. Provide supportive investment in low-income discount program to address financial impacts and achieve sufficient enrollment;
- c. Manage congestion to desired travel times, speeds, or reliability thresholds established for the project, and to meet any additional system performance metrics that may include established goals to reduce VMT and greenhouse gas emissions.

(6) Other factors the Commission should consider in adopting the rate schedule include:

- a. Simplifying the toll rate structure to help with communication to customers. For example, minimizing the number of different toll rates, rate changes throughout the day, or rounding all toll rates to the closest 10 cent increment.
- b. The goals of the project in determining overnight and non-congested pricing. If tolls are designed to pay a significant portion of a project's cost, consider charging at all hours to ensure that all users help pay for construction of improvements. If there is not a revenue target, consider not charging tolls

during non-congested hours, particularly overnight.

- c. Setting pre-completion tolls after the start of construction of a project should be considered to raise revenue for the project and manage traffic. Pre-completion toll rates should be set at a level that is less than the expected post-completion toll. Prior to project completion tolls should not be charged during non-congested hours, particularly overnight.
- d. When rate pricing over a longer length of roadway, allow variable rates to be applied in different roadway segments by defining road pricing zones. Zones should be as long as possible and should only be divided where there is a major system connection location that significantly changes the traffic characteristics as compared to an adjacent zone. The rates are then allowed to vary between zones.
- e. Rates should be structured to encourage users to shift their trips to less busy times of day, other modes of transportation (e.g. public transportation, carpools, biking, and walking), or telecommute.
- f. Rates by vehicle type should be established in a manner that acknowledges the principle of cost responsibility as a part of the highway cost allocation and adjust as needed to ensure compliance with Oregon state constitution requirements.

**731-040-0051 (previously 731-040-0054 and 731-040-0055)**

**Process for reviewing and approving the establishment of tolling and toll rates; interstate bridges**

(1) This rule applies to all proposals to establish tolls on an interstate bridge that is or will be a state highway, including those submitted by the department, those submitted jointly with the department under the authority of ORS 381.010 (Columbia River bridges), ORS 381.098 (Snake River bridges), and those submitted jointly with the department under ORS 367.800 to 367.826 (the Oregon Innovative Partnerships Program).

(2) When reviewing a proposal, the Commission will consider the toll rate setting factors identified in OAR 731-040-0050 (Process for reviewing and approving the establishment of tolling and toll rates).

(3) In addition, the Commission will consider:

a. Whether another state has any authority over the bridge;

b. Whether the proposal has been authorized or is expected to be authorized, by the governing body with jurisdiction over the proposal in the other state linked to Oregon by the bridge;

- c. Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposal in the other state, if any;
- d. Whether the proposer has legal authority to implement the project in the other state, and if not, the level of coordination between the proposer and the entity having such authority; and
- e. Existing bi-state agreements on tolls and tollway projects.

(4) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

**731-040-0060 (previously 731-040-0056 and 731-040-0057)**  
**Process for approving revised toll rates, generally**

- (1) The tollway operator will provide an annual performance review of each tollway facility for the Commission to consider adjustments.
- (2) Rate adjustments should maintain compatibility with the factors identified in establishing the initial rates, as identified in OAR 731-040-0050 (Process for reviewing and approving the establishment of tolling and toll rates; generally).
- (3) The performance review will include information on the:
  - a. Revenue and administration cost of the tolling system.
  - b. Facility investments needed to meet financing requirements, maintenance, operations, preservation, and rehabilitation needs.
  - c. Operations of the tollway and major roadways nearby, including safety and traffic levels compared to congestion management goals.
  - d. Impact of tolls on cost responsibility requirements for light and heavy vehicles.
  - e. Impact to goals for climate and greenhouse gas reduction, health, and air quality improvement for the tollway corridor or region.
  - f. Exemptions offered and their impact to revenue, administration cost, traffic patterns, and essential safety, equity, and travel needs.
  - g. Low-income toll program enrollment, financial impact to customers experiencing low incomes, impact on travel patterns of customers experiencing low incomes, and revenue and administration cost impacts of the low-income toll program.
- (4) An advisory committee that includes customers experiencing low incomes may be created to participate in the performance review process. Based on the performance review and public outreach, the tollway operator in collaboration with an advisory committee will



propose to the Commission any changes to the toll rate schedule, including upward or downward adjustments to toll rates and updates to the toll rate framework, including exemptions, discounts, and rates for different vehicle classes.

- (5) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

**731-040-0061 (previously [731-040-0058](#) and [731-040-0059](#))**  
**Process for approving revised toll rates, interstate bridges**

- (1) This rule applies to all proposals to establish tolls on an interstate bridge that is or will be a state highway, including those submitted by the department, those submitted jointly with the department under the authority of ORS 381.010 (Columbia River bridges), ORS 381.098 (Snake River bridges), and those submitted jointly with the department under ORS 367.800 to 367.826 (the Oregon Innovative Partnerships Program).
- (2) The Commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.
- (3) Rate schedules per tollway are identified in OAR ###-##-####. Rate adjustments should maintain compatibility with the factors identified in establishing the initial rates, as identified in OAR 731-040-0050 (Process for reviewing and approving the establishment of tolling and toll rates; generally).
- (4) When revising the toll rates on an interstate bridge that is or will be a state highway, the Commission will consider the tolling and toll rate setting factors identified in OAR 731-040-0060.
- (5) In addition, the commission will consider:
- a. Whether another state has any authority over the bridge;
  - b. Whether the proposed toll schedule has been authorized or is expected to be authorized by the governing body with jurisdiction over the project in the other state linked to Oregon by the bridge;
  - c. Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposed toll schedule in the other state, if any;
  - d. Whether the proposer has legal authority to approve the toll schedule in the other state, and if not, the level of coordination between the proposer and the entity having such authority; and
  - e. Existing bi-state agreements on tollway projects.

# TOLL RATE SCHEDULES

731-040-0090

## Toll Rate Schedules and Suspension of Tolls

- (1) The Department shall make readily available all account requirements and rules at the time of account initiation, as well as in commonly available locations such as the toll account website.
- (2) The Department may suspend the collection of tolls on any tollway due to a declaration of emergency by the Governor to accommodate a rapid influx, migration or displacement of individuals as described in [ORS 401.025\(1\)\(b\)](#).