

# Research on Regulations & Policy:

## Low-Income Toll Program and Equity, Toll Rate Setting and Adjustments, Discounts, Exemptions, and Rates by Vehicle Type

### **STRAC & EMAC July 21 Joint Workshop Materials**

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The purpose of this document is to provide information on the existing regulations, policies, and rules that govern topics of low-income tolls, rate setting and adjustments, discounts, exemptions, and rates by vehicle types. This is meant to inform the development of statewide rules (OARs) for Oregon.

## Regulations

Tolling regulations are primarily located in [Chapter 383](#) of the Oregon Revised Statutes (ORS) and in [Chapter 731, Division 40](#) of the OARs.

### **Low-Income Toll Program and Equity**

In 2021, the Oregon Legislature passed [House Bill \(HB\) 3055](#) which stated, “before the Department of Transportation assesses a toll, the department shall implement a method for establishing equitable income-based toll rates to be paid by users of tollways.” The Oregon Department of Transportation (ODOT) produced the Low Income Toll Report, which was delivered to the Oregon Legislature in September 2022 as directed in HB 3055.

## Toll Rate Setting and Adjustments

The dual goals of raising revenue for investments and managing congestion through tolling is detailed in [ORS 383.001](#). This section ends with the following statement:

- Significant traffic congestion adversely impacts Oregon’s economy and the quality of life of Oregon’s communities. Where appropriate, variable rate tolls should be applied to reduce traffic congestion and support the state’s greenhouse gas emissions reduction goals.

When reviewing a proposal to establish tolls and toll rates, the commission shall take into consideration, as described in [ORS 383.004](#):

- The amount and classification of the traffic using, or anticipated to use, the tollway;
- 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;
- 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;
- The location of toll booths or electronic toll collection systems to collect the toll for the tollway;
- The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;
- 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;
- The value of assets, equipment and services required for the operation of the tollway;
- The period of time during which the toll will be in effect;

- The process for altering the amount of the toll during the period of operation of the tollway;
- The method of collecting the toll; and
- The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway.

To implement the regulations listed above, there are adopted rules ([OAR 731-040-0052](#)) that direct the process for ODOT and the Oregon Transportation Commission (OTC) to review and approve the establishment of tolling and toll rates. They state:

- When reviewing a proposal from private entities, local or regional governments, or the department to establish tolls and set toll rates on either a project authorized under [OAR 731-40-0050](#), including tolls on an existing non-tolled state transportation facility; or a project that has a detailed proposal approved by the commission under [OAR 731-070-0170](#) (Commission Review and Selection of Proposals); the commission will consider:
  - The amount and classification of the traffic using, or anticipated to use, the tollway;
  - 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;
  - 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;
  - The location of toll plazas or toll collection devices to collect the toll for the tollway;
  - The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;
  - The amount of indebtedness incurred for the construction of the tollway and debt service requirements, if any;
  - The value of assets, equipment and services required for the operation of the tollway;

- The period of time during which the toll will be in effect;
- The process for altering the amount of the toll during the period of operation of the tollway;
- The methods of collecting the toll;
- The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway;
- Whether the department concurs that the tollway can be operated as proposed;
- The purpose and goals of the proposal, and their consistency with the other factors considered here;
- The use of tollway revenue;
- Consistency with Oregon statutes and the Oregon Constitution; and
- Whether implementation of the proposal would violate Federal rules or statutes.

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.

This rule applies to all proposals to establish tolls on a state highway or highways, including those submitted by the department and those submitted jointly with the department under [ORS 367.800](#) (Findings)–367.824 (Rules).

Other rules include: [731-040-0052](#) and [0053](#) (process for reviewing and approving tolls and toll rates, generally), [731-040-0054](#) (additional process for setting toll rates on highways), [731-040-0055](#) (additional process for setting toll rates on interstate bridges), [731-040-0056](#) and [0057](#) (process for adjusting toll rates, generally), [731-040-0058](#) (process for adjusting toll rates on highways), and [731-040-0059](#) (process for adjusting toll rates on interstate bridges).

## Discounts and Exemptions

Public transportation vehicles, as defined in [ORS 267.010 to 267.394](#), which includes an “An Over the Road Bus” per federal law.

Active military vehicles and personnel, as identified in [ORS 399.145](#).

## Rates by Vehicle Type

Tolling impact will be incorporated into the analysis for Highway Cost Allocation Study ([ORS 366.506](#)). This study looks at the proportionate share that the users of each class of vehicle should pay for the costs of maintenance, operation and improvement of the highways, roads and streets in the state.

# Policy

Tolling policy in Oregon is primarily set through the [Oregon Transportation Plan](#) (OTP) and [Oregon Highway Plan](#) (OHP) was adopted in early 2023 and the OTP is planned to complete an update in mid-2023.

## Low-Income Toll Program and Equity

The [Low Income Toll Report](#) was adopted by the Oregon Transportation Commission (OTC) in September 2022. This report identified the following options for consideration that have been advanced and evaluated:

- Provide a significant discount for those making 200% or below of the Federal Poverty Level (FPL), which is \$60,000 for a family of four in 2023, and some level of discount up to 400% of FPL, which is \$120,000 for a family of four.
- Use a verification process that leverages existing programs and further explore self-certification to qualify for program enrollment (or toll discounts).

Also, there is a list of inclusive practices for enrollment, verification, and enforcement in the report.

The [Oregon Highway Plan](#) tolling policies include:

**6.6 Policy:** Center equity in road pricing. Equity must be considered and addressed in the design, implementation and management of road pricing. Equity efforts must focus on both “process equity” and “outcome equity,” which are defined as follows:

- *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.
- *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.

**6.6.A Action:** Engrain equity into decision-making processes and ensure equity outcomes are achieved when developing, implementing, and managing road pricing programs, by:

- Ensure full participation of impacted populations and communities throughout the project and applications by identifying specific populations, groups, or geographic areas that will be used to discern equity. The Agency must be accountable and transparent.
- Explore how road pricing application will impact overall household budgets, populations and communities and maintain affordability, in balance with other objectives.
- Projects will identify ways to support multi-modal access through partnerships and expand opportunities for historically excluded and underserved communities.
- Projects will consider the project impacts to outcomes such as community health, including air quality, noise, traffic safety, economic impacts and other potential effects in tribal areas and on historically or currently excluded and underserved communities.

**6.7 Policy:** Structure rates so as not to impose unfair burdens on people experiencing low-income and to advance equity.

**6.7.A Action:** When planning for, implementing, and managing road pricing systems including rate setting, engage the following groups for feedback and analysis:

- Oregon’s federally recognized tribes
- People experiencing low-income or economic disadvantage
- Black, indigenous and people of color (BIPOC)
- Older adults and youth
- Persons who speak non-English languages, especially those with limited English proficiency
- Persons living with a disability
- Small, minority, and woman- owned businesses
- Other populations and communities historically underrepresented by transportation projects – this shall be determined at the project-level

**6.7.B Action:** To the greatest degree possible, investments that are necessary to advance equity must be delivered at the same time as tolling begins, or beforehand.

**6.7.C Action:** Tolling must be a user-friendly system that is clear and easy to use by people of all backgrounds and abilities, including linguistic diversity, and those without internet access.

**6.7.D Action:** Road pricing should not contribute to furthering financial indebtedness for people experiencing low income. This should be considered in the establishment of rates, discounts, exemptions, payments, enrollment, penalties or free travel options available to avoid further burdening people experiencing low-incomes who are struggling to meet basic needs (food, shelter, clothing, healthcare, etc.).

**6.15.D Action:** Provide a “cash preferred” option for paying road pricing fees in order to reduce barriers to use of the transponders.

## **Toll Rate Setting and Adjustments**

The [Oregon Highway Plan](#) tolling policies include:

Rate setting will be a critical step in tolling and congestion pricing processes. Specific rates are set in rule and the policy below provides the overarching structure for rate setting.

To provide clarity of the types of road pricing, the OHP classifies this into three types (see definitions):

- Tolling
- Congestion pricing (scheduled variable rate tolls)
- Combination

**6.5 Policy:** Design and operate congestion pricing projects to support shifting travel to off-peak hours and to biking, walking, and public transportation. Structure pricing 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.

**6.5.B Action:** Pursue congestion pricing strategies to manage demand so that the recurring congestion performance objectives are met during all hours of the day.

**6.5.C Action:** Upon completing toll bond obligations, consider congestion pricing strategies for ongoing reliability and demand management purposes.

**6.9 Policy:** Set rates to help achieve desired outcomes. Structure rates to maximize revenue consistent with performance goals and objectives as outlined in policy and specified by the project, while ensuring alternatives are evaluated throughout the planning and project delivery process.



**Table 1: Summary of Road Pricing Mechanisms and Associated User Impact and Goals**

Mechanism	Tolling	Congestion Pricing (variable rate)	Combination
<b>USER EXPERIENCE</b>			
One price to use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Price changes throughout day	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Predictable price for travelers	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>DEMAND MANAGEMENT</b>			
Encourage shifts away from single-occupancy vehicle travel	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Support VMT reduction	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Encourage shifts from peak travel to off-peak travel	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>TRAFFIC OPERATIONS</b>			
Manages recurring traffic congestion (congestion pricing)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Does achieve       Does not achieve

**6.9.A Action:** Set rates to achieve outcomes and performance targets with the understanding that outcomes will not likely be achieved through road pricing alone and additional revenue sources will be needed. Structure rates to meet the desired share from road pricing revenues.

**6.9.B Action:** Set rates, as appropriate, sufficient to:

- Cover the operations, maintenance, preservation, and capital costs of the tolling or congestion pricing system and administration as is required by law
- Reach the desired revenue needed to pay for the planned share from tolling for the infrastructure improvement, operations, and maintenance
- Address mitigation costs that are part of the project

- Manage congestion to desired travel times, speeds, or reliability thresholds established for the project
- Meet any additional system performance metrics, defined for corridors, a series of corridors or by segments
- Maintain the lowest possible toll rates while generating sufficient funds to meet the above needs

**6.9.C Action:** Rate setting decisions must be based on the following considerations that include equitable rate parameters. At a minimum, rate setting should include:

- Definition of a rate range to set a minimum and maximum threshold
- Consideration of condition thresholds for when a rate range may be exceeded
- Provision of discounted or free passage to be used for certain vehicles and users
- Definition of the project as defined in Policy 6.8

**6.9.D Action:** At a minimum of annually, review rates to assess goal achievement and need for additional or revised exemptions and discounts.

**6.9.E Action:** 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.

**6.10.H Action:** Analyze and consider reducing toll rates when funding needs are achieved for the infrastructure improvement but ensure that toll remains to help achieve statewide goals of congestion reduction, and support long-term administration, maintenance and operations.

**6.16 Policy:** Complete program assessment, monitoring, and adjustments. Once established, evaluate tolling and congestion pricing programs regularly against project specific objectives. Along with financial obligations, this will inform any future adjustments to the rate schedule and other program design adjustments.

**6.16.A Action:** Establish a monitoring and reporting program, which should include:

- Vehicle speed, volume, driver pattern changes within the corridor (e.g. diversion or rerouting), levels of congestion, modal shifts, transit time and reliability, air quality, GHG emissions, and equity goals identified on a project-level basis.
- Data should capture the benefits and impacts to multimodal transportation, which includes: freight, light rail, transit, passenger vehicles (single and high-occupancy), bike, walk, and telecommute. It is acknowledged that varying levels of data exist for these modes and thus information may vary by level of detail or frequency.

**6.16.B Action:** The OTC will evaluate and adjust all road pricing programs on a regular basis, with a minimum of annual review, and with consideration to effectiveness toward goals, rate adjustments needed and revenue generation thresholds.

**6.16.C Action:** Continually assess the cumulative impact of fees and tolled/priced areas on people experiencing low income.

**6.16.D Action:** Actively monitor cost allocation between light and heavy vehicles as a part of the highway cost allocation and adjust as needed and ensure compliance with Oregon state constitution requirements.

## Discounts and Exemptions

The [Oregon Highway Plan](#) tolling policies include:

**6.10 Policy:** Provide discounts or exemptions to incentivize certain travel behaviors or address impacts. Understand how pricing impacts users and incorporate considerations for system users while achieving pricing outcomes.

**6.10.A Action:** Explore a discount for customers who are frequent users of the system and lack alternative non-priced routes or transportation options that are needed to access essential services, such as health care, childcare, schools, food, or jobs. Determination of whether a discount should be offered should be evaluated against the goals of the project and the policies detailed within this Goal.

**6.10.B Action:** Provide discounts or account supplements for people who are experiencing low income and who are struggling to meet basic needs (e.g. food, shelter, clothing, etc.).

**6.10.C Action:** Evaluate and implement a low or no cost rate system for low income users.

**6.10.E Action:** Provide an exemption to public transportation vehicles, including “over-the-road” busses as required under Federal law.

**6.10.G Action:** Provide exemptions for active emergency response vehicles (police, fire, EMS/ambulatory service, etc.).

## **Rates by Vehicle Type**

The [Oregon Highway Plan](#) tolling policies include:

**6.16.D Action:** Actively monitor cost allocation between light and heavy vehicles as a part of the highway cost allocation and adjust as needed and ensure compliance with Oregon state constitution requirements.

**6.10.D Action:** Incentivize high-occupancy vehicles, such as shuttles, vanpools, and carpools.