

# Meeting #8 Summary: Statewide Toll Rulemaking Advisory Committee (STRAC)

The Oregon Department of Transportation (ODOT) convened a committee of people from across the state to help develop Oregon Administrative Rules (OARs) that will advise ODOT on how customers will interact with and use tolling systems as well as how toll rates will be set and adjusted. The STRAC held its eighth meeting on October 27, 2023, where they continued the committee's work in developing rules relating to determining vehicle rates, classifications, and the process for setting and adjusting toll rates.

The meeting was held virtually and hosted over Zoom. The meeting was live-streamed via YouTube and closed-captioning was provided.

The objectives of the meeting were to:

- Understand the current stage of the committee's work in the rulemaking process including the expected timeline and process for Oregon Transportation Commission decision-making.
- Build upon past STRAC member input and share how feedback has been applied to tolling policy and administrative rule.
- Discuss approaches for determining vehicle rates and classifications, and the process for setting and adjusting toll rates, and review current draft rules.
- Understand the role and status of the other toll advisory committees and work groups.

## Meeting Attendance

The meeting recording is on the Oregon Toll Program's [YouTube channel](#). The meeting was live streamed on YouTube and has 50 views as of November 7, 2023.

STRAC Project Team	Committee Members
<ul style="list-style-type: none"> <li>• Travis Brouwer</li> <li>• Garet Prior</li> <li>• Kelly Bruce</li> <li>• Hannah Williams</li> <li>• Jamie Damon</li> <li>• Madeline Kane</li> <li>• Maria Verano</li> <li>• Ellen Palmquist</li> <li>• Phil Miller</li> <li>• Daniel Porter</li> </ul>	<ul style="list-style-type: none"> <li>• Elizabeth Mazzara Myers</li> <li>• Ethan Hasenstein</li> <li>• Jeff Speigel</li> <li>• Lanny Gower</li> <li>• Marie Dodds</li> <li>• Commissioner Nafisa Fai</li> <li>• Park Woodworth</li> <li>• Dr. Philip Wu</li> <li>• Sean Philbrook</li> <li>• Shannen Knight</li> <li>• Sharla Moffett</li> </ul> <p>Absent:</p> <ul style="list-style-type: none"> <li>• Marc Ortega Kilman-Burman</li> <li>• Michael Card</li> <li>• Lauren Poor</li> <li>• Shatrine Krake</li> <li>• Omar Cruz</li> </ul>

## Opening

### Introduction & Welcome

Jamie Damon, facilitator, opened the meeting and welcomed attendees and viewers. She provided instructions on accessibility tools and how the public can submit their comments. Jamie confirmed the attendance of STRAC members, reviewed the agenda, and shared meeting guidelines and objectives. To center the committee, Jamie asked the members to answer a trivia question: “Back in the 1980s, what would Illinois Tollway customers throw in the coin machines instead of money?” STRAC members were asked to put their answers in the chat. The answer was Necco Wafers and Chuck E. Cheese tokens. Customers threw Necco Wafers and Chuck E. Cheese tokens in the machines resulting in broken and clogged machines.

Travis Brouwer provided welcoming remarks and shared his appreciation for STRAC’s time and engagement. Travis shared that STRAC would meet for the final time in November. Draft rules will be presented to the OTC on December 11. The final rules are anticipated to be filed in March 2024 following a public comment period.

## Where We’ve Been and Where We’re Going

Jamie Damon reviewed the STRAC engagement process and explained that this meeting is a Level 2 meeting. The purpose of a Level 2 meeting is for STRAC members to read and react to draft rules.

Garet Prior presented the rulemaking process timeline to provide context for how STRAC’s work fits into the larger process. He shared that an engagement report will be shared with the group during their November meeting and thanked members for their support of engagement efforts.

Also, Garet shared that additional time was added to the November meeting to provide time for feedback on the Fiscal and Equity Impact Statement.

## What We've Heard

Hannah Williams shared an overview of recent engagement events, including key themes and trends. ODOT attended over 30 events during the summer and engaged with over 5,000 people. ODOT also held focus groups with Community Engagement Liaisons and Community-Based Organizations to discuss rulemaking topics and interviewed 13 Community-Based Organizations to understand travel trends and engagement preferences. In September and October, ODOT partnered with the Commerce and Compliance Division to host two webinars with the trucking and freight community. Hannah shared key takeaways for vehicle classification and rate setting and adjustment.

Dr. Phil Wu, STRAC and Equity and Mobility Advisory Committee (EMAC), shared an update on EMAC's consideration of toll rate setting, adjustments, and classifications.

## Vehicle Rate Classifications and Cost Responsibility

Jamie Damon introduced the topic of vehicle rate classifications and shared the materials that were sent out ahead of the meeting on vehicle rate classifications and cost responsibility.

Garet Prior presented research on how other cities and regions have approached classification and cost between different vehicle types

### Oregon Highway Cost Allocation Study

Daniel Porter shared an update on the Highway Cost Allocation Study (HCAS) and how the study is used to help determine toll rate multipliers. In Oregon, the HCAS is conducted every two years to evaluate the proportionality of costs and revenues by light and heavy vehicles. Vehicles are considered "light" if they are under 10,000 pounds and "heavy" if they are equal to or over 10,000 pounds. Daniel reviewed the existing HCAS system and how the study is conducted. He explained how the HCAS can be used to set toll multipliers that create a cost responsible system. Using preliminary data from the I-205 Improvement Project, ODOT found that lower multipliers would be more equitable than rates used in the preliminary tolling analysis.

### Vehicle Classification

Phil Miller shared that ODOT is proposing to use an all-electronic toll system that will classify vehicles based on shape, rather than number of axles. This system will help with operating costs and will be easier for customers to navigate. Phil explained how laser or LiDAR sensors will be used to detect and measure vehicle dimensions as they pass through a gantry. This will

be used to determine vehicle classification. Phil reviewed diagrams showing the difference between light, medium, and heavy vehicle classifications based on the height and length of the vehicle. Almost all vehicles over 26,000 pounds will be classified as heavy vehicles. Phil clarified that ODOT will not distinguish between single bottom and double trailers. Customers will not need to know the vehicle size to register for a toll account. The system will be AI-trained over time to recognize anomalies like a bicycle mounted on the roof of a light vehicle. ODOT will provide customer service for cases in which there are errors in tolling.

## Toll Rate Setting and Adjustment

Garet Prior shared that there are existing rules for toll rate setting and adjustments. He noted that state law cannot be changed. Garet walked through the draft rules.

Garet shared the process for reviewing and approving the establishment of tolling and toll rates and highlighted that the rates by vehicle type will be established in a way that acknowledges the principle of cost responsibility as a part of the highway cost allocation and adjusted as needed to ensure compliance with the Oregon state constitution requirements.

Garet then explained the toll rate adjustment as established in rule and stated that each project will need to submit a yearly performance review which will include information on the impact of tolls on cost responsibility requirements for light and heavy vehicles.

### STRAC Discussion: Temperature Check

To get a better understanding of what the STRAC members think about the proposed rules, Jamie Damon facilitated an activity called a temperature check where STRAC members were asked to indicate with their thumbs (thumbs-up = support thumbs sideways = neutral, thumbs down = not supportive), their opinion on a discussion question.

Jamie asked the committee the following discussion question:

“We’ve heard that tolling should be aware of Oregon’s cost responsibility system.”

- When you read the references for “cost responsibility” in toll rules and reviewed the HCAS analysis, does this address the concern? If not, how should it be addressed in the tolling rules, knowing that an existing cost responsibility system is already in place?

Jamie then asked the STRAC members to explain their thumb position.

### STRAC members with a thumbs up shared the following:

**Comment:** A STRAC member shared that it’s important to not increase cost responsibility. The last study showed that the trucking industry is overpaying by 30%. This will need to be considered when determining the toll rate multiplier.

**Comment:** A STRAC member shared that it’s critical to use cost responsibility for determining the multiplier. With the Clean Trucks Rule, companies will be paying double or quadruple for heavy duty electric vehicles. There will be a much heavier cost burden to comply with a variety of programs. Everyone’s cost responsibility needs to be addressed.

**Comment:** A STRAC member shared that the concept of cost responsibility is important and significant for the freight community. It's also important for everyday drivers that may not consider the burden of their vehicle on the infrastructure. This is a concept that is important for everyone to understand and accept.

**Comment:** A STRAC member shared that the way the rules are structured seems reasonable.

**STRAC members with a thumb sideways shared the following:**

**Question:** A STRAC member shared that they agree with the overall acknowledgement of cost responsibility in the rules and want to better understand why the language in the rules was permissive. They asked if the language was strong enough and if it should include mandatory requirements?

**Response:** *Garet Prior responded that the HCAS is not discretionary. ODOT could make the rules more directive by using "shall" instead of "should". Tolling will be included in the HCAS cost responsibility analysis regardless of what the toll rates are and should be addressed there.*

**Comment:** A STRAC member shared that they plan to circulate the language to others.

The STRAC members had the opportunity to discuss the following questions:

- We've heard that tolling should be aware of Oregon's cost responsibility system. When you read the references for "cost responsibility" in toll rules and reviewed the HCAS analysis, does this address the concern?

If not, how should it be addressed in the tolling rules, knowing that an existing cost responsibility system is already in place?

- When you read about our approach and proposed parameters for height and length, what questions or comments do you have?

**Question:** A STRAC member shared that many people own sprinter vans and use them as daily vehicles. They asked if someone's personal sprinter van would fall into the same classification category as an Amazon delivery van?

**Response:** *Phil Miller responded that most vans sold for passenger van purposes are under the 7'6" threshold. Amazon trucks are over 8'. Once ODOT has a contractor on board, the threshold will be further evaluated. A mobile home would trigger this higher threshold.*

**Question:** A STRAC member asked if there would be an issue with an empty flatbed or "low-boy" trailer?

**Comment:** A STRAC member shared that the rules are at a good starting place. They stressed that tolling should not throw off cost responsibility even more and that heavy freight does not want to continue to pay more than their fair share.

**Comment:** A STRAC member shared that the structure was reasonable. They recognized that freight pays a lot to operate on Oregon's roadways and ODOT needs to keep this in mind.

## **Federal Requirements for Toll Revenue**

Travis Brouwer shared context for how toll funds can be used in compliance with federal and state laws. The federal government has requirements that must be followed when tolling the interstate. Federal requirements for the use of tolls are contained in 23 USC 129 (3). Toll revenues can be used for:

- Debt service for projects for which the tolls are authorized.
- Maintenance preservation, and improvement of the toll facility.
- Revenues beyond those required to adequately maintain the toll facility can be used for other purposes eligible for federal funding.

Under state law, toll revenue must be used exclusively for highway purposes. The Oregon Supreme Court interpreted this to mean that ODOT can use the funds for bicycle, pedestrian, and transit improvements within the roadway. Toll money must be used within the region. For example, tolls from I-205 cannot be used for projects in southern Oregon. ODOT has received requests from local governments to share toll revenue. This will be taken to the OTC in January 2024 for discussion and decision.

Travis explained gross toll revenue potential and shared that toll revenue could be used for uncollectible/unpaid tolls, bank card fees, operations and maintenance for toll collection and the facility, debt service, reserve account contributions, and pay-as-you-go capital funds.

Travis shared the importance of monitoring tolling and reporting findings to the public. ODOT is looking at other agencies to see how they handle monitoring and reporting. Travis highlighted the Washington State Department's Toll Monitoring system as an example of best practice for monitoring. He noted that it's important to understand the impacts of diversion and the impacts to customers. The OTC will be involved in ensuring transparency and accountability throughout the process.

## **STRAC Discussion**

The STRAC members then had an opportunity to ask clarifying questions to the project team.

**Question:** A STRAC member asked ODOT to define "gross toll revenue forecast".

**Response:** *Travis Brouwer shared that the gross toll revenue forecast will come through traffic and revenue studies for each toll facility. A Level 2 Traffic and Revenue Analysis was completed for the I-205 toll project when the Abernathy Bridge and Tualatin River Bridge were proposed for tolling. ODOT will update this study to reflect recent changes. A Level 2 Traffic and Revenue Analysis will also be completed for the Regional Mobility Pricing Project.*

**Question:** A STRAC member asked how the legislature's direction to ODOT as part of HB 2017 fits into existing state requirements.

**Response:** *Travis Brouwer responded that the legislature provided direction on how ODOT can use revenues generated on any state highway that is tolled. This law, passed by the legislature in 2017, has been incorporated into Oregon's tolling statutes. The statutory authority still falls under the Oregon State Constitution. Anything done in statute still has to fall under, and be consistent with, constitutional requirements. ODOT is following both. There is no conflict between the statute and the constitution.*

**Question:** A STRAC member asked how mitigation will be handled if ODOT cannot provide local jurisdictions with funds from tolling?

**Response:** *Travis Brouwer responded that there are limitations on providing funds for non-mitigation purposes. Under state and federal law, ODOT is allowed and required to use toll revenue for direct mitigation. For example, ODOT could identify an intersection impacted by tolling and use toll revenue for the purpose of improving the intersection. ODOT is not able to share revenue on a percentage basis.*

## **Research: Toll Rate Setting and Adjustments**

Garet Prior shared information on the governing bodies that set toll rates and their reporting requirements. He shared the typical reporting requirements are revenue generation, expenses, traffic impacts, and account types. Garet explained that ODOT plans to take a similar approach. He stated that specific intersections or facilities will be determined at a project level.

### **Toll Rate Setting and Adjustment Process**

Garet Prior reviewed the rules for the toll rate setting and adjustment process. The process includes the application phase, the rate setting phase, and rate adjustments. He explained that there are separate rules for rate setting and adjustments as interstate projects will require bi-state requirements. Garet reviewed details for each step:

- Step 1: Application Factors
- Step 2: Rate Setting
- Step 3: Rate Adjustments

Garet also outlined consideration factors for rate setting including:

- Simplified rate schedules
- Consideration of low/no tolls overnight
- Pre- and post-completion rates
- Limited number of toll zones on a longer roadway to reduce complexity
- Encourage mode shift
- Cost responsibility

### **STRAC Discussion: Temperature Check**

To get a better understanding of what the STRAC members think about the proposed process, Jamie Damon facilitated another temperature check where STRAC members were asked to indicate with their thumbs (thumbs-up= support, thumbs sideways= neutral, thumbs down= not supportive), to indicate their opinion on a discussion question.

Jamie asked the committee the following discussion question:

“We’ve heard that ODOT needs to provide greater clarity in how we will navigate multiple goals in setting toll rates.”

- When you read the rules for toll rate setting, is it clear? If not, how would you improve it?

Jamie then asked the STRAC members to explain their thumb position.

**STRAC members with a thumbs up shared the following:**

**Comment:** A STRAC member shared that they are supportive of the rules, but they are still in favor of one lane tolling.

**Comment:** A STRAC member shared that they are comfortable with where the rules are at.

**STRAC members with a thumb sideways shared the following:**

**Comment:** A STRAC member shared that their thumb was sideways because they were waiting for discussion about an employer incentive program.

**Comment:** A STRAC member shared that they were interested in seeing more direct references to consider climate mitigation and/or a reduction in vehicle miles. These are topics that EMAC has focused on.

**Response:** *Garet Prior responded that these topics are included in the considerations section and recommended that the member provide specific suggestions for language changes to Section C.*

**Comment:** A STRAC member shared that AAA does not support congestion pricing because it creates unpredictability with travel time and equity considerations. AAA would like to see the consideration of a non-tolled lane.

**Question:** A STRAC member asked if toll rates will be increased if congestion reduction or mode shift targets are not achieved?

**Response:** *Garet Prior responded that in the current proposed rules, mode shift is a consideration. The OTC would be tied to certain requirements and could use the considerations to help decide between one toll scenario and another. ODOT is not anticipating that mode split targets will be a requirement.*

**Comment:** A STRAC member shared that they do not support congestion pricing because many in the workforce do not have a choice about when they arrive at work. They shared that they are interested in employer programs to help mitigate toll fees for employees.

**Comment:** A STRAC member shared that Oregon Business and Industry supports decarbonization of Oregon's highway system. They cautioned against including too many factors in rulemaking that make it confusing to understand or don't provide flexibility. There are multiple regulatory programs coming online that companies will be required to follow. These programs need to work together and can be costly.

**Response:** *Garet Prior responded that ODOT is trying to be nimble and clear about tolling's contribution to climate goals and is aware of the regulatory environment and the impacts to companies. Travis Brouwer responded that the OTC will be required to consider and balance multiple factors when setting toll rates. Financial factors will be the foundation.*

**Comment:** A STRAC member shared that if the rules mention reducing greenhouse gases, one could conclude that there should be preferential treatment for electric vehicles or that they should get a lower toll rate. They stated that electric and high-efficiency vehicles are underpaying. They recommended discussing the need to balance cost responsibility with not disincentivizing drivers from purchasing new technology with the OTC.



**Question:** A STRAC member asked how frequently rates would be adjusted if the HCAS is part of the OTC's consideration. If the HCAS is only produced every two years, how would the study have well informed data on the cost responsibility of the various vehicle types?

**Response:** *Garet Prior responded that there will be an annual performance review for tolling. If rates are changed, notification and engagement will be required. Phil Miller shared that there are two general categories of rate setting and adjustment. There is an annual increase model that increases tolls at a low amount. There is also a model tied to performance targets. If targets aren't met, the OTC would review the rates.*

**Comment:** A STRAC member shared the importance of ensuring that there's accurate data for HCAS before adjustments are made. This will impact the cost responsibility for different users of the system.

**Response:** *Phil Miller responded that ODOT will do a good job tracking data so it can be accurately used to inform the HCAS. Garet Prior asked the member to share any specific edits.*

The STRAC members had the opportunity to discuss the following questions:

- When you read the rules for toll rate setting, is it clear? If not, how would you improve it?
- As the rules are currently stated, and after hearing the project-level plans, do you have any comments or questions?

**Comment:** A STRAC member shared that they do not monitor toll fluctuations closely. They are more concerned about congestion pricing. Drivers cannot deliver goods in the middle of the night and behavior will not change based on the toll rate. The operator must figure out how to pass the cost on and it usually ends up in the cost of goods sold.

**Comment:** A STRAC member shared that they are an operator, and they budget for toll costs each year, similar to other expenses. For the most part, increases on tolls are tied to inflation and large increases are not common.

**Comment:** A STRAC member shared that the impacts of toll rate will vary based on the location of their projects. The cost will be passed on to consumers, including public customers like PBOT. They are price sensitive to all the different inputs to our products.

**Question:** A STRAC member asked if a structure to help frame, interpret, and comment on toll rate information with the OTC could be included in subsection G under #3 in revising the toll rates section.

**Response:** *Garet Prior responded that the way it's currently proposed does not refer to additional advisory committee work, it just refers to the public outreach and what's required by the existing system for OTC decision making.*

**Question:** A STRAC member asked if costs would be increased to compensate for ODOT's increased employment costs to cover the operations of the system?

**Response:** *Travis Brouwer responded that the cost to collect revenue will be built into the toll rates. ODOT needs to have sufficient net revenue after the cost of collection to meet revenue requirements. ODOT will work to reduce the collection costs. For all ODOT employees, not specific to tolling staff, personal services costs have gone up an average of 3.8% per year over the past 20 years.*

**Question:** A STRAC member asked if indirect costs, like office square footage, would be included?

**Response:** *Travis Brouwer responded that ODOT has cut facility costs over the past several years as more people are working from home. This will be dependent on what the workforce looks like for tolling. ODOT anticipates having a small number of employees overseeing a larger toll operator.*

## Looking Ahead / Next Steps

Jamie Damon shared that the last meeting will be November 17, 2023, and the meeting will be extended to cover the Fiscal and Equity Impact Statement. During the meeting, the committee will finalize the feedback on draft rules. She shared that the next OTC meeting is December 11, and the commission will be reviewing rules relating to the Low-Income Toll Program. She explained that ODOT is looking at early 2024 for a public comment period and early and mid-2024 for the adoption of the rules.

Jamie shared that ODOT may reach out to the STRAC in 2024 ahead of the public comment period for additional feedback on the package of draft rules.

Garet Prior shared that after December 11, ODOT will work with the Department of Justice to determine what can and can't be incorporated into the rule. He noted that there will likely be some language changes between December 11 and the rulemaking public comment period. ODOT will come back to STRAC and touch base on the edits and unresolved issues.

## Community Engagement

Hannah Williams shared that ODOT is going to compile an engagement report to share before the November STRAC meeting. Hannah reviewed the September engagement with Community-Based Organizations and The CCD Brown Bag Webinar. Hannah reviewed key themes for each engagement point, including feedback related to discounts and exemptions, and enrollment and compliance for commercial accounts.

Hannah provided an overview of upcoming committee meetings for the Regional Toll Advisory Committee (RTAC), the OTC, and for EMAC.

### Committee Report Outs

Dr. Phil provided a high-level review of the upcoming meetings and topics for discussion for the EMAC.

Commissioner Nafisa Fai provided an overview of past meetings, as well as the conversations and outcomes of the meetings, and previewed the upcoming meetings for the RTAC.

## Next Steps and Thank You

Jamie Damon shared that the next STRAC meeting will be held on November 17, 2023, from 9:00am to 1:30pm, and that the STRAC would be receiving an evaluation to complete for this meeting.

Travis Brouwer thanked the STRAC members for their valuable feedback and dedication. He reflected on the concerns and input that were shared during the meeting. Travis noted that STRAC has one more meeting and appreciated the time they have put into the process. Travis encouraged STRAC members to watch the OTC meetings in November and December.

*The meeting ended at 11:51pm.*