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CHAPTER 731

DEPARTMENT OF TRANSPORTATION

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FILING CAPTION: Amends, repeals, adds new rules related to toll operations, project initiation, project authorization, and rates.

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RULES:

731-040-0010, 731-040-0020, 731-040-0030, 731-040-0031, 731-040-0039, 731-040-0041, 731-040-0050, 731-040-0051, 731-040-0052, 731-040-0053, 731-040-0054, 731-040-0055, 731-040-0056, 731-040-0057, 731-040-0058, 731-040-0059, 731-040-0061, 731-040-0065, 731-040-0075

AMEND: 731-040-0010

RULE TITLE: Purpose

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Removed reference to OIPP program.

RULE TEXT:

(1) OAR 731, division 40, describe the process for initiating, evaluating, authorizing and administering tollway projects on state right of way proposed by private entities, local or regional governments and the Oregon Department of Transportation and combinations thereof.

(2) OAR 731, division 40 includes requirements for submitting project proposals; guidelines for considering financial and other issues; and requirements for consistency with other local, state and federal policies and processes; and the establishment and adjustment of toll rates by the Oregon Transportation Commission.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.004, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383

AMEND: 731-040-0020

RULE TITLE: Definitions

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Added terms used in revisions; deleted terms no longer used in the rules.

RULE TEXT:

As used in OAR 731, division 40 rules:

- (1) "Commission" means the Oregon Transportation Commission.
- (2) "Department" means the Department of Transportation.
- (3) "Director" means the Director of the Oregon Department of Transportation or the designee thereof.
- (4) "Interstate bridge" means a bridge over both a waterway that contains a boundary line with another state and the boundary line.
- (5) "OIPP Partnership Agreement" means a public-private partnership under the Oregon Innovative Partnership Program, as defined in OAR 731-070-0010.
- (6) "Outcome equity" means acknowledging existing inequities and striving to prevent historically excluded and underserved communities identified at the project-level from bearing a disproportionate burden of negative effects that directly result from the project, and seeking to improve transportation accessibility, options for travel, community health, and affordability for the identified community or communities.
- (7) "Private entity" has the meaning given in ORS 383.003.
- (8) "Process equity plan" means a plan for implementing a Tollway Project, from design to post-implementation monitoring and evaluation, that encourages the meaningful participation of individuals and groups from historically excluded and underserved communities, as identified for the Tollway Project.
- (9) "Related facility" has the meaning given in ORS 383.003.
- (10) "Toll" has the meaning given in ORS 383.003.
- (11) "Tollway operator" has the meaning given in ORS 383.003.
- (12) "Tollway project" has the meaning given in ORS 383.003.
- (13) "Tollway Concept Proposal" or "TCP" means an unsolicited preliminary proposal for a tollway project that is used to investigate the project's feasibility and potential impacts and benefits.
- (14) "Unit of government" has the meaning given in ORS 383.003.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.003, 383.004, 383.014, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383

AMEND: 731-040-0030

RULE TITLE: Initiation by Public and Private Entities and Administrative Fee

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Amended rule title, amended rule text to reflect new process and fee for resubmitting proposals.

RULE TEXT:

A private entity, individual or unit of government may submit an application for review of an unsolicited Tollway Concept Proposal at any time. A private entity or individual must pay an administrative fee of \$5,000 to the Department for the Department's review of an unsolicited TCP. The fee to submit a revised Tollway Concept Proposal for Department review is \$2,500. Administrative fees are due and payable at the time of application submission. Applications submitted without the fee will not be reviewed by the Department. A unit of government is not required to pay an administrative fee for the review of an unsolicited TCP.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0031

RULE TITLE: Initiation Process for Unsolicited Tollway Concept Proposals

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Defines process and criteria for submission of unsolicited proposals for tollway projects.

RULE TEXT:

- (1) This rule applies to unsolicited TCPs from private entities, individuals and units of government, pursuant to ORS 383.015.
- (2) Any administrative fees described in OAR 731-040-0030 must accompany the application. The Department will publish the requirements for content and format of a TCP application on the Department's website. Requirements include but are not limited to:
 - (a) Information about the applicant entity or consortium of entities (private, public or a combination) including financial information, experience in transportation infrastructure development, public-private partnerships, or federal-aid highway construction.
 - (b) A description of the proposed Tollway Project scope, location, and all proposed interconnections with other transportation facilities; the key risks and assumptions associated with the Project.
 - (c) A description of any work completed to develop the Tollway Project, including planning, environmental analysis, or preliminary engineering.
 - (d) A discussion of support or opposition from local governments and communities impacted by the project, the significant social and economic benefits and burdens of the project.
 - (e) A discussion of project financing, including secured or pledged funds, and their source, anticipated public funding, including funds sought from the Department.
- (3) The Department will review the TCP and make a recommendation to the Commission based on the criteria in ORS 383.015.
- (4) Based on the agency recommendation, the Commission may:
 - (a) Approve the proposed concept for further development into a full tollway project through a competitive solicitation for an OIPP project or a Department-initiated tollway project; or
 - (b) Reject the proposal.
- (5) A Tollway Concept Proposal may be revised and re-submitted by the proposer for Department reconsideration and recommendation to the Commission once, unless otherwise directed by the Commission or Department. The resubmittal fee described in 731-040-0030 must accompany the resubmitted proposal.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383.015

ADOPT: 731-040-0039

RULE TITLE: Authorization of Tollway Projects

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Clarifies and streamlines the process for authorization of tollway projects; addresses resubmission of proposals.

RULE TEXT:

(1) This rule applies to all proposed tollway projects.

(2) The Department will evaluate a proposed tollway project and provide findings and a recommendation to the Commission. The Department may not recommend authorization of a tollway project unless the Department makes one of the findings described in ORS 383.004.

(3) The Commission will review the proposed tollway project, the Department's findings and recommendations, the factors identified in ORS 383.0004, and consider the following:

(a) How the proposed tollway project will coordinate tolling with existing and potential new transportation services or investments to address congestion on the tollway.

(b) How the proposed tollway project will incorporate process equity and outcome equity into the project's design, implementation, and operations.

(c) The effects of tollway implementation on community and local traffic, their magnitude and expected impacts to livability.

(4) Upon review of the proposed tollway project, the Commission will authorize, authorize with conditions, or reject the proposal. A Commission decision is issued in writing.

(5) A proposal may be revised and re-submitted by the proposer for Department reconsideration and recommendation to the Commission once, unless otherwise directed by the Commission or Department.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0041

RULE TITLE: Authorization of Tollway Projects on Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Defines new process and criteria to authorize tollway on interstate bridges; addresses resubmission of proposals.

RULE TEXT:

(1) This rule applies to all proposed tollway projects to establish tolls on an interstate bridge that is or will be a state highway under the Department's jurisdiction, including proposals submitted by the Department and proposals submitted jointly with the Department under the authority of ORS 381.010 (Columbia River bridges) or ORS 381.098 (Snake River bridges). These tollway projects are also subject to the requirements of OAR 731-040-0039.

(2) The Department will consider the factors identified in OAR 731-040-0039 in evaluating the proposal and provide findings and a recommendation to the Commission. The Department may not recommend authorization of a tollway project unless the Department makes one of the findings described in ORS 383.004.

(3) The Commission will consider the tollway project proposal, the Department's findings and recommendations, and all of the following:

(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 any 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.

(4) The Commission will authorize, authorize with conditions, or reject the proposal. A Commission decision is issued in writing.

(5) A proposal may be revised and re-submitted by the proposer for Department reconsideration and recommendation to the Commission once, unless otherwise directed by the Commission or Department.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.004, 383.015, 383.075

STATUTES/OTHER IMPLEMENTED: ORS 383

AMEND: 731-040-0050

RULE TITLE: Evaluation and Authorization

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Amended rule title; amended rule text to clarify processes; addressed resubmission of proposals.

RULE TEXT:

(1) This rule applies to all proposals to approve initial toll rates on an authorized tollway project, including proposals submitted jointly with the Department under an OIPP agreement.

(2) The operator must create a process equity plan prior to submitting a proposal for initial rates and the rate proposal must include feedback on the proposed rate obtained by engaging with communities identified in the process equity plan.

(3) The toll rate proposal must include an evaluation of how outcome equity has informed the design of the proposal and plans for how it will inform the implementation and operation of the tolled facility.

(4) The Department will evaluate the toll rate proposal and provide a recommendation to the Commission.

(5) When establishing initial toll rates, the Commission must consider the Department's recommendations and the factors described in ORS 383.004 and set rates to address the following:

(a) The cost of toll operations and improvements, preservation, and maintenance of the tollway project, tollway, and related facilities, including paying any debt service issued to finance tollway projects.

(b) Management of congestion to desired thresholds, as established for the tollway and adjacent roadways, including but not limited to, travel times, speeds, reliability, increasing accessibility, reducing greenhouse gas emissions, and avoiding, to the extent practicable, the reduction of existing service levels on the tollway.

(6) In addition to the factors described in section (5) of this rule, the Commission may consider:

(a) Authorizing toll reductions or exemptions. The reduction or exemption may be limited and directly related to the needs for operation, maintenance, safety, person-carrying capacity of the roadway, or for emergency response. The Commission may also consider a reduction or exemption for low-income households or for tribal members and tribal government vehicles.

(b) Simplifying the rate structure to help with communication and public understanding, which may include minimizing the number of different rates, limiting rate changes throughout the day, or rounding rates to the closest 5 cent increment.

(c) Determining how or if to apply toll rates for overnight and non-congested periods.

(d) Structuring rates to encourage users to shift trips to less busy times of day, telecommute, or use other modes of transportation, such as public transportation, carpools, biking, and walking.

(e) Setting rates based on vehicle classification, in accordance with requirements for fairness and proportionality between classes of vehicles, as provided in Article IX, section 3a(3), of the Oregon Constitution.

(7) The Commission will approve, conditionally approve, or disapprove a proposal to establish initial toll rates. A Commission decision is issued in writing.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.015

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0051

RULE TITLE: Process for Approving Initial Rates on Tollways on Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Revises process for proposing initial rates and criteria for approval; addresses resubmission of proposals.

RULE TEXT:

(1) This rule applies to a proposal to approve initial toll rates on an interstate bridge that is or will be a state highway under the Department's jurisdiction, including proposals submitted by the Department, or jointly with the Department under ORS 381.010 (Columbia River bridges), or ORS 381.098 (Snake River bridges). Approval of tolls on interstate bridges is also subject to the requirements of OAR 731-040-0050.

(2) The proposal must be submitted to the Department for review. The Department will consider the factors identified in OAR 731-040-0050 in evaluating the initial toll rate proposal and provide a recommendation to the Commission.

(3) The Commission will consider the Department's recommendation, the factors identified in OAR 731-040-0050, and all the following:

(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 any 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.

(4) The Commission will approve, conditionally approve, or disapprove a proposal to establish initial toll rates. A Commission decision is issued in writing.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.004, 383.015, 383.075

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0052

RULE TITLE: Process for Reviewing and Approving the Establishment of Tolling and Toll Rates; Generally

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found in OAR 731-040-0040, 731-040-0050.

RULE TEXT:

(1) 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; the commission will consider:

- (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 plazas or toll collection devices 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 debt service requirements, 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 methods of collecting the toll;
- (k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway;
- (L) Whether the department concurs that the tollway can be operated as proposed;
- (m) The purpose and goals of the proposal, and their consistency with the other factors considered here;
- (n) The use of tollway revenue;
- (o) Consistency with Oregon statutes and the Oregon Constitution; and
- (p) Whether implementation of the proposal would violate Federal rules or statutes.

(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) 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 367.800–367.826.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0053

RULE TITLE: Proposals for Establishment of Tolling under OAR 731-040-0052

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found in OAR 731-040-0050.

RULE TEXT:

(1) Proposers shall address all of the criteria in OAR 731-040-0052 in each proposal. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0054

RULE TITLE: Additional Process for Reviewing and Approving the Establishment of Tolling and Toll Rates on Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found at OAR 731-040-0041, 731-040-0051.

RULE TEXT:

(1) 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) Each of the considerations established in OAR 731-40-0052;

(b) Whether another state has any authority over the bridge;

(c) 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;

(d) Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposal in the other state, if any;

(e) 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

(f) Existing bi-state agreements on tolls and tollway projects.

(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) 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 or ORS 381.098, and those submitted jointly with the department under ORS 367.800 - 367.826.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 381.010, 381.098, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0055

RULE TITLE: Proposals for OAR 731-040-0054, Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found at OAR 731-040-0041, 731-040-0051.

RULE TEXT:

- (1) Proposers shall address all of the criteria in OAR 731-040-0052 and 731-040-0054. Proposals shall be submitted to the director and the department will review the proposal to determine if the proposal is complete.
- (2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.
- (3) If a proposal is submitted under this section, no proposal needs to be submitted under OAR 731-040-0053.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 381.010, 381.098, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

AMEND: 731-040-0056

RULE TITLE: Process for Approving Revised Rates, Generally

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Updates the process, modifies text for clarity.

RULE TEXT:

(1) This rule applies to a tollway operator, including a tollway operator operating jointly with the Department under an OIPP agreement.

(2) Proposals to revise toll rates shall include analysis and documentation of the following:

(a) How the proposed toll rate revisions account for the factors in OAR 731-040-0050.

(b) Feedback gained from engagement with communities identified in the process equity plan on the revised toll rates.

(c) How outcome equity will be impacted by the revised toll rates; and

(d) Explaining revisions to the toll rates, toll exemptions, reductions, or toll rates for different vehicle classifications.

(3) The Department will consider the operator's performance review(s), described in OAR 731-040-0065, evaluate the proposed toll rate revisions and provide a recommendation to the Commission.

(4) The Commission will review the Department's recommendation and approve, conditionally approve, or disapprove a proposal to revise toll rates. A Commission decision is issued in writing.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0057

RULE TITLE: Proposals for OAR 731-040-0056, Revised Toll Rates

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found at OAR 731-040-0060.

RULE TEXT:

(1) Proposers shall address all of the criteria in OAR 731-040-0056. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0058

RULE TITLE: Additional Process for Reviewing and Approving Revised Toll Rates on Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found at OAR 731-040-0061.

RULE TEXT:

(1) Toll rates previously approved through the process in OAR 731-040-0052 or OAR 731-040-0054, including anticipated formulaic changes in rates, are not subject to this rule.

(2) When reviewing a proposal to revise toll rates on an interstate bridge that is or will be a state highway, the commission will consider:

(a) All of the considerations established in OAR 731-040-0056;

(b) Whether another state has any authority over the bridge;

(c) 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;

(d) 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;

(e) 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

(f) Existing bi-state agreements on tollway projects.

(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) This rule applies to all proposals to revise toll rates 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 or ORS 381.098, and those submitted jointly with the department under ORS 367.800 through 367.824.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 381.010, 381.098, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

REPEAL: 731-040-0059

RULE TITLE: Proposals for OAR 731-040-0058, Revised Toll Rates for Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Relevant content can be found at OAR 731-040-0061.

RULE TEXT:

- (1) Proposers shall address all of the criteria in OAR 731-040-0056 and 731-040-0058. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.
- (2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.
- (3) If a proposal is submitted under this section, no proposal needs to be submitted under OAR 731-040-0057.

STATUTORY/OTHER AUTHORITY: ORS 184.616, 184.619, 381.010, 381.098, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0061

RULE TITLE: Process for Approving Revised Rates on Interstate Bridges

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Defines process and criteria for approval of revised rates on interstate bridges; addresses resubmission of proposals.

RULE TEXT:

(1) This rule applies to a tollway operator's proposal to revise the tolls on a tollway on an interstate bridge that is or will be a state highway under the Department's jurisdiction, including proposals submitted by the department, or jointly with the department under ORS 381.010 (Columbia River bridges) or ORS 381.098 (Snake River bridges). Approval of revised toll rates on these interstate bridges is also subject to the requirements of OAR 731-040-0056.

(2) The Department will consider the operator's performance review(s), described in OAR 731-040-0065, evaluate the proposed revisions and provide a recommendation to the Commission.

(3) The Commission will consider the Department's recommendation, and all of the following:

(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 any 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.

(4) The Commission will approve, conditionally approve, or disapprove a proposal to revise toll rates. A Commission decision is issued in writing.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 383.004, 383.015, 383.075

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0065

RULE TITLE: Tollway Operator Performance Review

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Defines new requirement for performance review of toll facility operator.

RULE TEXT:

(1) This rule applies to tollway operators, including those operating jointly with the Department under an OIPP agreement.

(2) A tollway operator shall provide a written annual performance review of the tollway to the Department and Commission no later than one year from the date of commencing operations. Subsequent annual reviews shall cover a state fiscal year and be due after the end of the fiscal year. If the tollway operator intends to propose revised toll rates in the coming fiscal year, the tollway operator shall include the analysis and documentation described in OAR 731-040-0056 in the review.

(3) The written annual performance review must include the following:

(a) Revenue and administration costs for the tollway project and tollway.

(b) Status of tollway project investments, financing requirements, and needs for maintenance, operations, preservation, and rehabilitation.

(c) A report on mobility and safety of the tollway and adjacent roadways included in the tollway project footprint and any changes to travel patterns associated with imposing tolls.

(d) Overall amount of tolls collected, and tolls collected, including tolls owed, by vehicle classification.

(e) Information on transportation mobility and air quality, where monitoring data is available, that would inform the Department's pursuit of state greenhouse gas emissions reduction and air quality goals.

(f) Number and classification of vehicles receiving reductions and exemptions, the impact of reductions and exemptions to revenue and administration costs.

(g) If a low-income toll program applies to the tollway, the number of vehicles enrolled in a low-income toll program as a percentage of the estimated number of potentially qualifying customers for that tollway, the impact to revenue and administration costs, and a report on the aggregate travel patterns of vehicles participating in a low-income toll program.

(h) Information on vehicle trip counts and transit passenger counts, both on the tolled facility and adjacent facilities that may experience diversion as a result of tolling.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 381.010, 381.098, 383.004

STATUTES/OTHER IMPLEMENTED: ORS 383

ADOPT: 731-040-0075

RULE TITLE: Customer Data

NOTICE FILED DATE: 08/29/2024

RULE SUMMARY: Describes how the agency will handle toll customer data.

RULE TEXT:

- (1) Customer records and information used to collect and enforce tolls follow the disclosure requirements specified in ORS 383.075.
- (2) Public records request fees and requirements for the Department are described in OAR 731-001-0025.
- (3) An individual requesting customer records or data must submit a request in writing as prescribed by the Department, which is identified on the Department's webpage. The request must include:
 - (a) Government issued identification to verify the identity of the requestor.
 - (b) Information demonstrating that the requester is one of authorized individuals or entities that may access driver records and information used to collect and enforce tolls, as is identified in ORS 383.075(2) and (3).
 - (c) A description of the requester's intended use of the information and how that intended use will conform to the requirements in ORS 383.075.
- (4) The Department may disclose the requested records if the Department is satisfied that requester has provided reasonable assurances that the requester's identity, uses of the information, and any applicable permissions comply with the requirements of this rule and ORS 383.075.

STATUTORY/OTHER AUTHORITY: ORS 183.413, 183.470, 183.745, 184.619, 192.324

STATUTES/OTHER IMPLEMENTED: ORS 383