



# **Oregon Revised Statute 366.215**

Creation of state highways; reduction in vehicle-carrying capacity

## **Implementation Guidance**

January 26, 2022

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## PURPOSE OF THIS DOCUMENT

This guidance applies to all projects in planning, project development, development review and maintenance. A review of potential reduction of vehicle-carrying capacity is required for all Proposed Actions on Reduction Review Routes subject to [Oregon Revised Statute \(ORS\) 366.215](#).

Communication should take place early with your Region Mobility Liaison, the ODOT Statewide Mobility Services Team, and the [Stakeholder Forum](#).

The sponsor for the Proposed Action is typically an ODOT Planning, District or Project Delivery staff member advocating for an ODOT project. For local government projects and development review cases, ODOT staff may bring a project for review on behalf of a local government or developer.

## OREGON REVISED STATUTE 366.215

This statute identifies the Oregon Transportation Commission's authority to build and modify state highways. The statute states that the Commission may not permanently reduce the "vehicle-carrying capacity" of an identified freight route (*aka Reduction Review Route*) unless safety or access considerations require the reduction, or a local government requests an exemption and the Commission determines it is in the best interest of the state and freight movement is not unreasonably impeded.

In the context of this statute, "vehicle-carrying capacity" refers to the vertical and horizontal clearance of a highway section that can physically carry motor vehicles. A reduction of vehicle-carrying capacity means a permanent reduction in the horizontal or vertical clearance of a highway section, by a permanent physical obstruction to motor vehicles located on useable right-of-way subject to Commission jurisdiction, unless such changes are supported by the Stakeholder Forum.

Although not in rule, the term "*hole-in-the-air*" describes the area needed to accommodate legal and permitted over-dimension loads. The hole-in-the-air refers to the entire roadway, not just the load on the road at any particular moment. We need to think of a reduction in vehicle-carrying capacity the same way the freight stakeholders do - if they can get through the highway segment today, they want to get through there tomorrow.

Examples of permanent structures that can result in a reduction in vehicle-carrying capacity could include, but are not limited to, bridge structures, traffic signals, signposts, stationary bollards, curbs, bulb-outs, trees, raised or depressed medians, pedestrian refuge islands, traffic separators, roundabouts, streetlights and overhead wiring. Street markings such as bike lane striping or on street parking are not considered a reduction of vehicle-carrying capacity.

The ODOT Statewide Mobility Program [website](#) includes additional information on ORS 366.215 as well as other mobility-related policies and procedures.

## OREGON ADMINISTRATIVE RULE CHAPTER 731, DIVISION 12

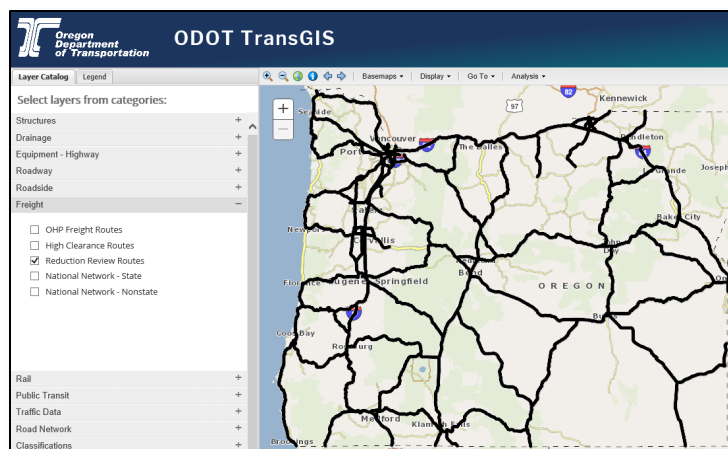
In 2013, the state adopted Oregon Administrative Rule, Chapter 731, Division 12 (Reduction of Vehicle-Carrying Capacity) to implement ORS 366.215. The purpose of the Rule is to define terms, identify a [review process](#), and facilitate communication and development of consensus during this review process. The [Oregon Highway Plan](#) also references the statute, and applies this rule to Policy 1C: State Highway Freight System.

The rule is organized into the following sections:

<a href="#">Section 0010</a>	Purpose	<a href="#">Section 0080</a>	Proposed Actions for Access
<a href="#">Section 0020</a>	Definitions	<a href="#">Section 0090</a>	Proposed Actions for Safety
<a href="#">Section 0030</a>	Reduction Review Routes	<a href="#">Section 0100</a>	Director Determination
<a href="#">Section 0040</a>	Application of the Rule	<a href="#">Section 0110</a>	Chief Engineer Certification
<a href="#">Section 0050</a>	Determination of a Potential Reduction of Vehicle-Carrying Capacity	<a href="#">Section 0120</a>	Local Agency Exemption
<a href="#">Section 0060</a>	Stakeholder Forum	<a href="#">Section 0130</a>	Commission Decision
<a href="#">Section 0070</a>	Stakeholder Forum Planning Input	<a href="#">Section 0140</a>	Record Keeping

## REDUCTION REVIEW ROUTES

Reduction Review Routes are routes that have been identified as state highways subject to ORS 366.215 and require a review under Oregon Administrative Rule, Chapter 731, Division 12. Reduction Review Routes include all parts of the state highway(s) that must be travelled to complete the prescribed route and/or connect with other state highways. This includes couplets and on and off ramps.



*ODOT TransGIS web page with Reduction Review Route Layer displayed.*

Reduction Review Routes can be viewed as a layer in [ODOT TransGIS](#). In the *Layer Catalog* tab, select *Freight*, check the box for *Reduction Review Routes*, and then click *Apply*. Various maps of Reduction Review Routes can also be downloaded from the [Statewide Mobility Program website](#) (planning guidance and resources page). In

addition to the maps, [Section 0030](#) of the rule contains a link to a table of highways designated as Reduction Review Routes.

## STAKEHOLDER FORUM

Meeting with stakeholders in a “Stakeholder Forum” to discuss Proposed Actions is the key step in the [ORS 366.215 review process](#). Stakeholders invited to participate in the Forum include, at a minimum; a bicycle representative, pedestrian representative, a trucking industry representative, a mobile home manufacturing representative, an oversize load freight representative, a representative of automobile users, and a representative from any affected city, county or Metropolitan Planning Organization.

In the case of a development review, a representative of the affected development will also be invited to participate in the meeting.

The Mobility Services Team is responsible for inviting statewide transportation stakeholders to participate in the Stakeholder Forum, while the sponsor for a Proposed Action must invite the appropriate local stakeholders (e.g. affected local agencies and other local stakeholder groups).

In some cases, design issues can be resolved to the point where the Stakeholder Forum does not consider the Proposed Action to be a reduction of vehicle-carrying capacity. Likewise, a Proposed Action may actually reduce highway dimensions, but not significantly enough to impede the movement of legal loads-or over-dimension loads.

After meeting with the Stakeholder Forum, there may be disagreement about whether the Proposed Action should go forward. Disagreement does not mean the Proposed Action is without merit.

The ODOT Mobility Services Team facilitates the Stakeholder Forum and prepares documentation. Mobility meeting agendas and minutes can be found on the [Mobility Meeting Records website](#). For questions about the review process, email the Mobility Services Team at: [PDS-MobilityServices@odot.oregon.gov](mailto:PDS-MobilityServices@odot.oregon.gov).

## INFORMATION REQUIRED FOR STAKEHOLDER FORUM

For the Stakeholder Forum, the sponsor must prepare and submit to the Mobility Services Team a presentation on the Proposed Action as listed below:

- 1. Location map, highway name and mileposts.**
- 2. Brief description of the problem or issues** (*Including the anticipated safety considerations and access considerations*).
- 3. Brief description of the Proposed Action.**
- 4. Diagram of the existing roadway cross section including existing structures.**

- a. Include widths (if applicable) for travel lanes, shoulders, bike lanes, medians, parking, curb to curb dimensions, etc.
- b. Include vertical clearances (if applicable) for all travel lanes and shoulders underneath existing structures.
- c. Describe any existing structures or obstacles in the right-of-way that may impact the hole-in-the-air such as signs, guardrails, landscaping, or other roadside features. (Need to consider features beyond the face of curb due to overhang or off-tracking with some over-dimensional loads.)

### 5. Diagram of the proposed roadway cross section, including proposed structures.

*(Note: If possible, provide the existing and proposed cross sections on the same presentation slide so the Stakeholder Forum can easily compare them).*

### 6. Information about pinch points on the highway near the proposed project.

*Note: While helpful for the Stakeholder Forum to conduct its review, nearby pinch points do not necessarily determine whether or not a Proposed Action will result in a reduction of vehicle-carrying capacity.*

An [ORS 366.215 PowerPoint Presentation Template](#) must be used for presenting this required information. Instructions are provided at the beginning of the template and within the notes section of each slide. Refer to the Mobility Advisory Committee Charter [Appendix D: Mobility Meeting Guidelines](#) for additional guidelines and requirements for preparing and presenting information in Mobility Meetings.

## STAKEHOLDER FORUM CONSENT CALENDAR

The [Mobility Advisory Committee Charter](#) provides project review criteria in [Appendix C](#), used to determine which projects with mobility impacts need to be shared with the committee, and how they should be shared. Appendix C established an ORS 366.215 Consent Calendar, which is used for addressing projects with proposed low-impact reductions in vehicle-carrying capacity.

Projects that meet the low-impact criteria described in Appendix C are added to the consent calendar for consideration by the Stakeholder Forum. During the Mobility Advisory Committee meeting, the Stakeholder Forum addresses the entire consent calendar agenda as a single action, rather than spending time to view presentations on each project.

Regions wishing to add a project to the consent calendar submit their project information to the Mobility Services Team at least three weeks prior to the committee meeting, using a [Consent Calendar Request Form](#) (refer to the instructions at the top of the form for submitting to the Mobility Services Team). Mobility analysts review the request to determine if the project can be added to the consent calendar, based on the criteria in Appendix C. If a complex project has multiple proposed actions that potentially reduce vehicle-carrying capacity, all of them must match the criteria in order to be placed on the

calendar. Projects will not be “split apart” so that some components are on the consent calendar while others are discussed in a meeting.

If there is any uncertainty by the analyst as to whether the project meets the criteria, the project will not be placed on the calendar and will be scheduled for a full discussion in the committee.

The Mobility Services Team notifies the region that its project has been selected for the consent calendar, and advises them to be prepared in the event a SF member requests a full presentation and removal from the calendar.

The charter allows any Stakeholder Forum member to request that a consent calendar item be presented in person during a committee meeting. This doesn't necessarily mean the stakeholder does not support the project. These requests are intended to bring the project to a meeting to learn more about the impacts before providing support. Should a Stakeholder Forum member make this request, the Mobility Services Team will work with the Region Mobility Liaison, the project team and the Stakeholder Forum members to find a suitable time for presenting to the committee.

## PLANNING DOCUMENTS

Planning documents that propose features that could be a reduction of vehicle-carrying capacity must be in compliance with the statute. Regions may decide to obtain approval for proposed future actions by following the [ORS 366.215 Review Process](#).

However, a Proposed Action in a planning document may not contain sufficient design detail to determine if the action is a reduction in vehicle-carrying capacity, or would be supported by the Stakeholder Forum. In most cases, it is best to wait until project implementation to follow the Stakeholder Forum review process. For these situations, the plan must identify the Reduction Review Route in the plan area and provide the following statement or equivalent:

*Planning concept potentially reduces vehicle-carrying capacity of the highway; further evaluation of the project design will be required at the time of implementation to ensure compliance with ORS 366.215.*

Planning documents that include Stakeholder Forum comments and identify the need for ORS 366.215 review may be finalized without the Oregon Transportation Commission approving a reduction in vehicle-carrying capacity at the time of plan completion.

## STAKEHOLDER FORUM RECORDS

Support of a Proposed Action by the Stakeholder Forum is recorded in a formal *Record of Support* that is created and published by the ODOT Mobility Services Team following Stakeholder Forum meetings. The document provides a record of determinations and information that is required under [OAR 731-012-0140](#). Stakeholder Forum Records of Support, as well as ODOT Director and Oregon Transportation Commission decisions



are documented on the [Mobility Meeting Records website](#), which includes an [ORS 366.215 Records page](#). The Rule requires records to be maintained for 10 years.

## FREQUENTLY ASKED QUESTIONS

### 1. When was ORS 366.215 adopted?

The legislature adopted changes to ORS 366.215 with respect to state highways in 2003. Subsequent revisions to the statute were made in 2005.

### 2. When should a project go through this process?

Planning studies and proposed construction projects should go through this review process as soon as possible in order to avoid mobility conflicts that may arise later. Early communication ensures a timely and efficient review in this process. In order to obtain input from stakeholders, the proposed planning study and project needs to be far enough along in design in order to provide the Stakeholder Forum with the information they need to provide input. This guidance document [identifies the information required](#) to submit to the Mobility Services Team.

### 3. How do you prepare for a Stakeholder Forum presentation?

A presentation with the [required information](#) provided in this Guidance Document needs to be submitted to the Mobility Services Team at least three weeks prior to a Stakeholder Forum Review (Mobility Advisory Committee meeting). Refer to the Mobility Advisory Committee Charter [Appendix D: Mobility Meeting Guidelines](#) for further information on meeting preparation. An [ORS 366.215 PowerPoint presentation template](#) is required for creating presentations, and [template instructions](#) are available as well.

### 4. Why does it take a meeting of the Stakeholder Forum to determine if there is a RVC?

In many cases, one individual alone will not be able to determine if a proposed design concept constitutes a reduction of vehicle-carrying capacity. Each situation is different including the types of over-dimensional loads transported on various highways. This is the primary reason why the procedure requires a meeting of various stakeholders.

Although the Highway Design Manual contains urban highway standards, it does not address over-dimensional loads. There is no "design vehicle" that represents the maximum size of an over-dimensional load.

### 5. If a Proposed Action involves constructing a new bridge structure over a Reduction Review Route where none existed before, is the new structure considered to be a potential reduction of vehicle-carrying capacity?

Yes. Per Oregon Administrative Rule, a reduction of vehicle-carrying capacity means "a permanent reduction in the horizontal or vertical clearance of a highway section, by a permanent physical obstruction to motor vehicles located on usable right-of-way



subject to Commission jurisdiction, unless such changes are supported by the Stakeholder Forum."

A review of potential permanent Reduction of Vehicle-Carrying Capacity is required for all Proposed Actions located on a Reduction Review Route. If Department staff determine the new bridge structure would permanently reduce vertical clearance on the Reduction Review Route (e.g. an obstruction is created over the highway where none existed before), then the Proposed Action has the potential for a reduction in vehicle-carrying capacity that is subject to Stakeholder Forum review.

**6. If a local jurisdiction plans on constructing a new bike or pedestrian structure over a state highway designated a Reduction Review Route, to connect their local roadways located on each side of the structure, does ORS 366.215 apply?**

Yes. When a Proposed Action potentially reduces the vertical and/or horizontal vehicle-carrying capacity of a highway section on a Reduction Review Route, it is subject to OAR Chapter 731, Division 12 and ORS 366.215 regardless of who owns the proposed structure or roadways where the bridge ends connect.

**7. Why can't the Stakeholder Forum members participate on a city's technical advisory committee during the development of downtown plans and Transportation System Plans like other stakeholders?**

With almost 300 cities and 36 counties across the state, it would be very difficult for the Stakeholder Forum members (many of whom represent statewide interests) to keep track of and attend all of the technical advisory committees conducted by these governments.

While local haulers and stakeholder groups located in the project area are important stakeholders to include in your project development process, they may not have the same issues/perspectives of the larger statewide interests.

**8. How often does the Stakeholder Forum meet?**

Stakeholder Forum Reviews are conducted as part of the regular Mobility Advisory Committee meetings. These meetings are generally held on the 2<sup>nd</sup> Thursday of each month. A meeting schedule, agendas, minutes and other meeting materials are available on the [Mobility Meeting Records](#) website.

**9. Some ODOT funding programs do not have a formal process for freight stakeholder review before funds are awarded. ODOT may be funding projects that we don't know the agency will allow to be built, or built as desired by the applicant. How do we resolve these issues?**

Staff working within any grant or federal-aid program like the Transportation and Growth Management Program, Safe Routes to School Program, Bicycle & Pedestrian Program, the Transportation Alternatives Program, Congestion Management Air Quality Program, Surface Transportation Program, Safety Program, Emerging Small Business Program, Scenic Byway Program, etc. must review applications for many

issues including freight mobility prior to awarding funds.

The Mobility Services Team works with other ODOT units that process grants or federal-aid to coordinate early input from the freight stakeholders on projects that may impact freight mobility. It is important to remember that projects on a Reduction Review Route cannot be constructed until completing the [ORS 366.215 review process](#) regardless of funding source. For some of these grant or federal-aid programs, it is important to have the Regional Tech Centers or District Offices watching for projects during their review processes to ensure the process has been followed and documented.

**10. How does a Special Transportation Area affect the outcome of a proposed reduction of vehicle-carrying capacity?**

A Special Transportation Area is an ODOT highway segment designation for an existing downtown or planned downtown that straddles the state highway. The primary objective of a Special Transportation Area is to provide access to community activities and businesses to accommodate pedestrian, bicycle and transit movement.

A Special Transportation Area designation will be part of the considerations that the Oregon Transportation Commission will look at when a local government requests an exemption under ORS 366.215. The Special Transportation Area designation and management plan may help convey the city's goals and plans for that section of the highway.

The Commission will evaluate the request and strive to balance accessibility and freight mobility needs. Remember that even though the primary objective of a Special Transportation Area is to accommodate pedestrian, bicycle, and transit, freight haulers must still have the ability to move goods and services including over-dimension loads.

**11. Where do bike lanes fit in?**

Under Oregon law, permitted over-dimension loads are allowed to occupy the bike lanes if needed to navigate through a section of state highway. Street markings such as bike lane striping, are not considered a reduction of vehicle-carrying capacity.

Examples of permanent structures that can result in a reduction of vehicle-carrying capacity could include, but are not limited to, traffic signals, signposts, stationary bollards, curbs, trees, raised or depressed medians, roundabouts, streetlights and overhead wiring. The number of travel lanes, lane width and other factors are taken into consideration by the Stakeholder Forum when determining if there is a reduction of vehicle-carrying capacity and whether or not they can support it or not.

**12. If a Proposed Action on a Reduction Review Route does not create a new pinch point, is it still considered a potential reduction of vehicle-carrying capacity?**

Yes. Per Oregon Administrative Rule, a reduction of vehicle-carrying capacity means "a permanent reduction in the horizontal or vertical clearance of a highway section, by

a permanent physical obstruction to motor vehicles located on usable right-of-way subject to Commission jurisdiction, unless such changes are supported by the Stakeholder Forum."

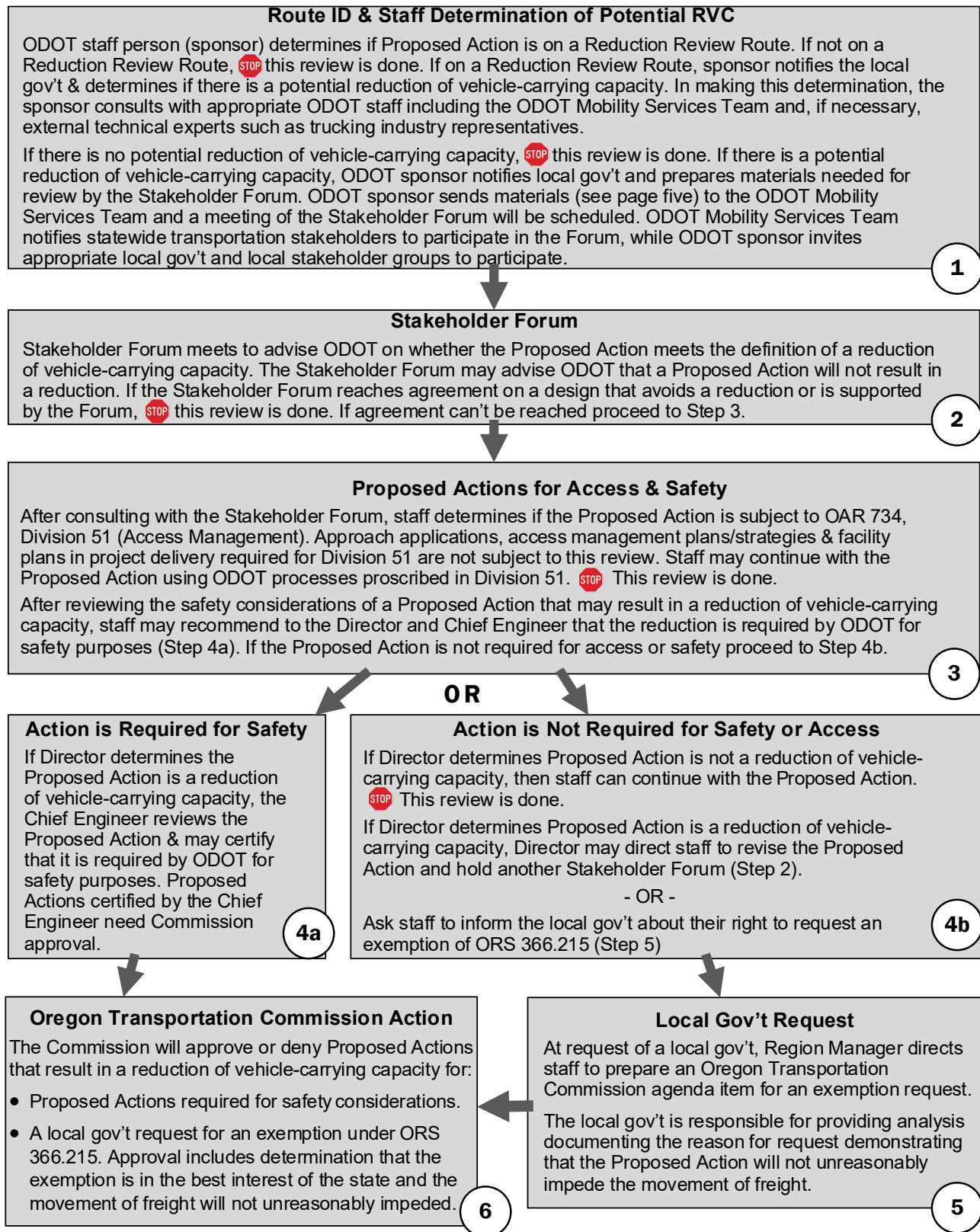
A reduction of vehicle-carrying capacity can be thought of as the "hole-in-the-air" above the roadway. If the Proposed Action would reduce the hole in the air (such as a raised median, sign bridge or pedestrian island), it could be considered a reduction of vehicle-carrying capacity even if no new pinch point is created.

Per Rule, Department Staff is responsible for identifying if the Proposed Action has the potential for a reduction of vehicle-carrying capacity.

## **REVIEW PROCESS FLOW CHART**

A simplified flow chart of the review process associated with the rule is provided on the next page. The review process for a majority of proposed actions will end with Step Two. Not all of the process details pertaining to the Rule are included in the chart. Refer to the information in this guidance document and the Rule for additional information and clarification (such as the definition of terms and requirements).

## ORS 366.215 - FLOW CHART



## RESOURCES

Item/Link	Description
<a href="#">Highway Over-Dimension Load Pinch Points Study</a>	Developed by the ODOT Freight Planning Unit, this study identifies and brings awareness to highway pinch points that restrict the movement of truck over-dimension loads.
<a href="#">Mobility Advisory Committee Charter</a> (with Appendices)	Defines the roles and responsibilities for the Mobility Advisory Committee, which includes the Stakeholder Forum.
<a href="#">Mobility Meeting Guidelines</a> (Appendix D of the MAC Charter)	Provides expectations, roles and responsibilities for preparing and presenting at Mobility Advisory Committee meetings (which includes SF presentations).
<a href="#">Mobility Meeting Records Website</a>	Mobility Advisory Committee agendas, minutes and presentation materials.
<a href="#">Mobility Presentation Template Instructions</a>	Provides instructions on using and submitting the templates for meetings.
<a href="#">Mobility Procedures Manual</a>	This manual is the accepted authority for mobility policy for ODOT.
<a href="#">OAR Chapter 731, Division 12</a>	Rule that pertains to Reduction in Vehicle-Carrying Capacity.
<a href="#">OAR Chapter 734, Division 51</a>	Rule pertains Access Management. Refer to Step 3 in the <a href="#">ORS 366.215 Review Process Flow Chart</a> .

Item/Link	Description
<a href="#">ODOT Statewide Mobility Program Website</a>	Provides additional information about ORS 366.215 and other mobility-related policies and procedures. The site also includes contact information for the Mobility Services Team and the Region Mobility Liaisons.
<a href="#">ODOT TransGIS Mapping Tool</a>	Used to display Reduction Review Routes. Open the <i>Freight</i> layer, check the box for <i>Reduction Review Routes</i> , then click <i>Apply</i> to view the routes.
<a href="#">Oregon Highway Plan</a>	Guides how state highways are developed and managed.
<a href="#">ORS 366.215</a>	Full text version of the statute.
<a href="#">ORS 366.215 Presentation Template</a>	Use of this template is required and ensures that all information necessary for Stakeholder Forum support will be included in the presentation.
<a href="#">ORS 366.215 Records Web Page</a>	Includes Records of Support and presentation materials from Stakeholder Forum discussions.
<a href="#">Roundabout Directive (DES-02)</a>	Roundabouts proposed on a Reduction Review Route must follow both the <a href="#">ORS 366.215 review process</a> and the expectations & processes provided in this Directive.
<a href="#">Statewide Reduction Review Route Map</a>	PDF copy of statewide Reduction Review Routes.