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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 737
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION SAFETY DIVISION

FILED

11/22/2023 10:19 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Safe Routes to School Program Rule Update

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/21/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The proposed amendments incorporate changes suggested by the Safe Routes to School (SRTS) Advisory Committee due to the passage of House Bill 2099 during the 2023 Legislative session. Statutory changes included an option for OTC to reduce the cash match requirement below 20 percent, the expansion of school type to prekindergarten through 12th grades, and the expansion of project proximity to 2 miles from a school.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB2099: <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2099/Enrolled>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

By amending the Safe Routes to School rules to expand the scope of the program and reduce cash match requirements, ODOT believes rule adoption will positively affect racial equity in this state. The proposed amendments will allow more communities impacted by safety risks, often low-income and racially diverse communities, to qualify for infrastructure grants to create more access to safe pedestrian and bicycle facilities.

FISCAL AND ECONOMIC IMPACT:

These rule changes will have a positive financial impact on other agencies and members of the public.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

- (1) These proposed rule changes will have positive financial impact on local government agencies as it will reduce the cash match that eligible entities must pay to participate in the program. There may be a slight negative fiscal impact on ODOT as awarded funds would pay for 100 percent of the project rather than 60-80 percent with cash match. However, ODOT SRTS would most likely fund a similar number of grants, and some projects may have smaller scopes. ODOT is unable to quantify the economic impact because the impact will depend on the number and type of grant applications and the circumstances of each eligible entity's proposed cash match for each project.
- (2) Because small businesses in general are not subject to these rules, there will be no costs for them associated with reporting, recordkeeping and other administrative activities, professional services, equipment, supplies, labor or increased administration required for compliance.
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DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The proposed rulemaking has no impact on small businesses and therefore, small businesses were not involved in the development of the rule amendments.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A Rule Advisory Committee was not necessary because the Safe Routes to School Advisory Committee provided input on ODOT's proposed rules.

RULES PROPOSED:

737-025-0010, 737-025-0011, 737-025-0012, 737-025-0020, 737-025-0030, 737-025-0040, 737-025-0050, 737-025-0060, 737-025-0070, 737-025-0080, 737-025-0090, 737-025-0091, 737-025-0092, 737-025-0093, 737-025-0094

AMEND: 737-025-0010

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0010 for readability and clarity, section (4)(a) to update Cash Match conditions where populations are 5,000 to 25,000 or fewer and amend section 21 to reflect passage of House Bill 2099 to expand qualifying schools from prekindergarten to grade twelve.

CHANGES TO RULE:

737-025-0010

Definitions and Acronyms ¶¶

- (1) "Applicant" means an entity that qualifies under OAR 737-025-0030 and OAR 737-025-0091.¶¶
- (2) "Application" means the form, prescribed by ODOT, and all supplemental attachments, exhibits or other supporting papers.¶¶
- (3) "Bicycling" includes, but is not limited to, use of bicycles.¶¶
- (4) "Cash Match" means funds expended by the applicant that are reasonable, necessary and directly related to the construction project identified in the Application. Cash Match does not include In Kind Match, including education and outreach efforts at the school. Past ODOT Safe Routes to School grants are not eligible as a qualifying Cash Match and project expenditures can only be used as cash match once. Expenditures eligible as Cash Match may include Project expenditures made within 24 months prior to the application deadline and may be extended up to 120 months by the Safe Routes to School Advisory Committee when one or more of the below conditions apply:¶¶
- (a) The school is located in a city with a population of 25,000 or fewer;¶¶
- (b) The project reduces hazards within a Priority Safety Corridor; or¶¶
- (c) The school site qualifies as a Title I School.¶¶
- (5) "Education" means public-awareness and encouragement campaigns, outreach to press and community leaders, bicycle and pedestrian safety programs and activities, traffic education, training, and the evaluation of such activities.¶¶
- (6) "Endorsement" means support and approval as required in OAR 737-025-0030.¶¶
- (7) "Enforcement" means law enforcement operations and equipment relating to school zones, crosswalks, speed;

crossing guard activities and supplies; and evaluation of such activities.¶

(8) "Engineering" means planning, design, construction, and evaluation of infrastructure-related projects.¶

(9) "In kind match" is time, services, or any other portion of the program or project not covered by grant funding or cash match provisions.¶

(10) "Infrastructure" means public improvement to transportation facilities and systems. Examples include but are not limited to sidewalks, street crossings, and bicycle lanes.¶

(11) "Letter of support" means a letter from the governing body (or bodies) or the school or school district, stating their willingness to participate in the project, as well as their endorsement of the project.¶

(12) "Letter of Interest" means the preliminary letter, in a format prescribed by ODOT.¶

(13) "Non-infrastructure" means parts of Safe Routes to School program that is not public improvement to transportation facilities. Examples include but not limited to education, outreach, and training.¶

(14) "Non-Profit" means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code; or is organized not for profit, pursuant to ORS Chapter 65, or any predecessor of ORS Chapter 65; or is otherwise organized and operated under section 501(c) of the Internal Revenue Code.¶

(15) "OBPAC" means the Oregon Bicycle and Pedestrian Advisory Committee, the Governor-appointed committee that advises ODOT as defined in ORS 366.112.¶

(16) "ODOT" means the Oregon Department of Transportation and its divisions.¶

(17) "OTC" means the Oregon Transportation Commission, the Governor-appointed and legislatively confirmed committee that oversees ODOT as defined in ORS 184.612.¶

(18) "OTSC" means the Oregon Transportation Safety Committee, the Governor-appointed committee that advises ODOT as defined in ORS 802.300.¶

(19) "Priority Safety Corridor" is a project in an area with high-risk factors that are known to impact safety and have not been mitigated.¶

(a) A project qualifies where the project boundaries include the following high-risk safety conditions:¶

(A) Either the posted or 85th percentile speed is 40 miles per hour or greater; or¶

(B) Two or more of the following exist:¶

(i) Speed limit 30 miles per hour or greater;¶

(ii) More than two lanes or a crossing distance greater than 30 feet;¶

(iii) 12,000 or greater annual average daily traffic;¶

(C) Has a demonstrated history of crashes related to school traffic.¶

(b) Projects that do not meet these criteria may qualify for an exception if the applicant can demonstrate a significant safety risk through data or research. "Priority Safety Corridor" is separate and distinct from "Safety Corridor" defined in ORS 811.483 and is not a designation or certification made by ODOT, OTSC, or OTC.¶

(20) "Public School" means a public agency or school district defined in OAR 581-022-0102.¶

(21) "Qualifying School" is intended for ~~Non-Infrastructure~~ education grants and means a public, private, parochial, charter or alternative educational program offering instruction at levels prekindergarten through eighth grade, or any part thereof.¶

(22) ~~"Safe Routes to School Action Plan" means the plan developed to fulfill the requirements of ORS 195.115, OAR 737-025-0050 (3), and OAR 737-025-0060 (1).~~¶

~~(23) "Safe Routes to School Infrastructure Plan" means the plan developed to fulfill the requirements of ORS 195.115 and OAR 737-025-0060 (2).~~ 24.¶

~~(24)~~ "School district" means:¶

(a) A school district as defined in ORS 330.003.¶

~~(b) The Oregon State School for the Blind.~~¶

~~(c) The Oregon State School for the Deaf.~~¶

~~(d)~~ An educational program under the Youth Corrections Education Program.¶

~~(e)~~ A public charter school as defined in ORS 338.005.¶

~~(f)~~ An education service district.¶

~~(25)~~ "SRTS" means Safe Routes to School.¶

~~(26)~~ "SRTS Fund" means the Safe Routes to School Fund established under ORS 184.740.¶

~~(27) "TDD" means the Transportation Development Division, a division of the Oregon Department of Transportation.~~¶

~~(28)~~ "Title I School" ~~refers to~~ means a school in which children from low income families, ~~identified within the Oregon Department of Education school report cards, make up at least 40 percent of enrollment, according to make up at least 40 percent of enrollment, as identified in a school report card issued by the Oregon Department of Education in accordance with~~ Chapter I of Title I of the federal Elementary and Secondary Education Act of 1965.¶

~~(29)~~ "Transportation safety committee" means ~~a~~: ¶

~~(a) A local government advisory body charged with transportation safety. Alternately, or~~

~~(b) If a local government body has not formed a transportation safety committee, a local non-profit, such as neighborhood association, which that specifically includes traffic or transportation safety in their its charter or charge from one or more government bodies can fulfill this role in the absence of a committee.~~

~~(30.1)~~

~~(28) "TSDO" means the Transportation Safety Division Office within Driver and Motor Vehicle Services (DMV), a division of the Oregon Department of Transportation.~~

~~(3129) "Walking" means use of human-powered forms of transportation, including, but not limited to travel to your the destination by foot, scooter, skateboard, rollerblades, skates, use of wheelchairs or other mobility device.~~

~~Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742~~

~~Statutes/Other Implemented: ORS 184.741, 184.742~~

AMEND: 737-025-0011

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0011 for readability and clarity.

CHANGES TO RULE:

737-025-0011

Safe Routes to School Program Purpose

The Oregon Safe Routes to School Program consists of two parts: infrastructure and ~~non-infrastructure education~~. Both programs focus on efforts that improve safety conditions for children to walk or bicycle to school. These programs are intended to address safety risks, such as any one of the components of a Priority Safety Corridor, and other safety needs considering the unique perspectives and behavior of children who walk or bicycle. A comprehensive Safe Routes to School program is inclusive of both ~~non-infrastructure and infrastructure and education~~ elements. ¶

(1) Grant programs for ~~Non-Infrastructure Education~~ projects are described in OAR 737-025-0012 through OAR 737-025-0080. ¶

(a) ~~Non-infrastructure is the education element of the Safe Routes to School program. Efforts include Safe Routes to School Action Plan development.~~ Education efforts include outreach, encouragement, training, evaluation, enforcement, and education services that identify and reduce barriers and hazards to children walking or bicycling to and from school. ¶

(b) Funding for the ~~non-infrastructure education~~ projects may be provided by the Oregon Transportation Commission or, through other funding within the Safe Routes to School Fund (ORS 184.740) not subject to restrictions in Article IX, Section 3a of the Oregon Constitution. ¶

(2) Grant programs for Infrastructure projects are described in OAR 737-025-0012 through, 737-025-0020, ~~737-025-0060~~, and 737-025-0090 through 737-028-00934. ¶

(a) Infrastructure is the engineering element of Safe Routes to School. Efforts include the development, construction, reconstruction, repair, maintenance, or operational improvements of bikeways and walkways that reduce barriers and hazards to children walking or bicycling to and from school. ¶

(b) Funding for the infrastructure projects that comes from money directed into the Safe Routes to School Fund (ORS 184.740) by ORS Oregon Laws 2017, chapter 750, (2017 Oregon Laws) section 71a, must be used in accordance with the Oregon Constitution, Article IX, Section 3a, and projects must be built within the public road right of way. Other funding may be provided by the OTC, donations, or other sources and may have different funding restrictions.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0012

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0012 for readability and clarity.

CHANGES TO RULE:

737-025-0012

Safe Routes to School Advisory Committee

A Safe Routes to School Advisory Committee is formed to guide the Safe Routes to School ~~Infra~~Infrastructure ~~Education~~ region and ~~Non-Infrastructure~~ Education programs. The committee is advisory to the Oregon Department of Transportation (ODOT) and the Oregon Transportation Commission (OTC), in consultation with the Oregon Transportation Safety Committee (OTSC).¶

(1) The 10-15 member committee is composed of volunteer members representing interests including but not limited to: the OTSC, OBPAC, safe routes to school practitioners, school districts, eligible entities, and equity and safety representatives.¶

(2) Committee members are appointed by the ODOT Director.¶

(3) Committee members ~~will~~ serve a four-year term and a maximum of two terms.¶

(4) The Committee ~~will be~~ is responsible for setting project selection criteria and making project selection recommendations. Project selection recommendations go to the OTC for ~~infra~~infrastructure ~~region~~ region projects in the Competitive Program, to the ODOT Director for Rapid Response Program, and to the OTSC prior to the OTC for ~~non-infrastructure~~ education.¶

(5) The OTSC and OBPAC ~~will~~ provide input on policy direction and guidance to the Safe Routes to School Advisory Committee.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0020

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0020 for readability and clarity.

CHANGES TO RULE:

737-025-0020

Grant Application Procedure ¶¶

(1) In January of odd-numbered years, ODOT will announce the schedules to submit grant applications for grants from the Safe Routes to School ~~infrastructure~~reion and ~~non-infrastructure~~education programs. Applications will not be accepted at times outside an announced application period. ODOT will make reasonable efforts to inform potential grant applicants of the grant schedule.¶¶

(2) A Letter of Interest may be required for specific grant cycles and must be submitted by the applicant and accepted by ODOT prior to an application.¶¶

(3) An applicant must complete an application in a format prescribed by ODOT and containing or accompanied by such information as ODOT may require within the prescribed time period.¶¶

(4) Applicants for projects that are not funded during an application period may reapply during a subsequent application period announced by ODOT.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0030

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0030 for readability and clarity.

CHANGES TO RULE:

737-025-0030

Who May Apply for ~~Non-infrastructure~~Education Grants ¶¶

Eligible applicants for SRTS Fund ~~non-infrastructure~~education grants include:¶¶

- (1) A school district, or a qualifying school not represented by a school district, in cooperation with the governing body (or bodies) with jurisdiction over the affected roadways or properties. The school district, or qualifying school not represented by a school district, must submit letters of support from such governing bodies stating their participation and endorsement as applicable to the project;¶¶
- (2) A city, county, state, regional government body, transit district or other unit of local government as defined by ORS 190.003, in cooperation with a school district or a qualifying school. The governing body must submit a letter of support from the qualifying school or affected school district stating its participation or endorsement as applicable to the project;¶¶
- (3) A non-profit organization in partnership with a school district, qualifying school, or one of the governmental bodies identified in section (1) or (2) of this rule. The application must include appropriate letters of support from the affected governing bodies. Additionally, if the organization is not a school, the application must include a letter of support from the affected school district, if applicable, stating its participation or endorsement.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0040

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0040 for readability and clarity.

CHANGES TO RULE:

737-025-0040

Eligible Projects and Activities for ~~Non-Infrastructure~~Education Grants ¶¶

Eligible Projects and Activities for ~~Non-Infrastructure~~Education Grants ¶¶

(1) Grants awarded through the Safe Routes to School ~~Non-Infrastructure~~Education Program may be used for projects or activities in:¶¶

(a) Education;¶¶

(b) Enforcement;¶¶

(c) ~~Safe Routes to School Action~~ or Safe Routes to School Infrastructure Plan Development; or¶¶

(d) Any combination of the above.¶¶

(2) All projects and activities must directly benefit a qualifying school.¶¶

(3) All projects and activities must meet the eligibility criteria applicable and match requirements to the specific funds being dispensed.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0050

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0050 for readability and clarity.

CHANGES TO RULE:

737-025-0050

Grant Application Requirements for ~~Non-infrastructure~~ Education Grants ¶

An eligible applicant applying for a ~~non-infrastructure~~ education grant from the SRTS Fund must submit an application following ODOT specifications in 737-025-0020 ~~that may require a Safe Routes to School Action Plan which meets TSD requirements, a Safe Routes to School Infrastructure Plan, or a commitment to independently complete an Action Plan or Infrastructure Plan within a specified time, or a request for assistance to complete an Action Plan or Infrastructure Plan (as allowed by ORS 184.741).~~

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

REPEAL: 737-025-0060

RULE SUMMARY: ODOT proposes to repeal OAR 737-025-0060 as action plans are no longer required for funding projects in the Safe Routes to School Education program and adopt the Safe Route to School Infrastructure Plan language in OAR 737-025-0094.

CHANGES TO RULE:

~~737-025-0060~~

~~Safe Routes to School Action Plan and Safe Routes to School Infrastructure Plan~~

~~(1) Safe Routes to School Action Plans must:~~

- ~~(a) Identify existing conditions and attitudes that have been identified as barriers and hazards to children walking or bicycling to and from school, developed pursuant to ORS 195.115.~~
- ~~(b) Prioritize the most critical actions needed to reach the Action Plan's stated goals in the areas of education, engineering, and enforcement. Action plans created prior to 2019 are valid without prioritization of a list of most critical actions needed.~~
- ~~(c) List specific engineering needs, including identification of infrastructure projects and priorities or refer to Safe Routes to School Infrastructure Plan if applicable.~~
- ~~(d) Be a product of work by local interested parties that must include representation of the following groups (a single person may fulfill multiple representations):~~
 - ~~(A) School Principal or designated school staff representative endorsed by the school district, if one exists;~~
 - ~~(B) A parent who is a representative of or has the endorsement of a recognized school/parent organization, if one exists;~~
 - ~~(C) City or county staff or representative endorsed by the local road authority;~~
 - ~~(D) Local transportation safety committee, if one exists.~~

~~(2) Safe Routes to School Infrastructure Plans must:~~

- ~~(a) Identify existing conditions identified as physical barriers and hazards to children walking or bicycling to and from school.~~
- ~~(b) Prioritize the most critical infrastructure needs, projects, and priorities.~~
- ~~(c) Be a product of work by local interested parties that must include representation of the following groups (a single person may fulfill multiple representations):~~
 - ~~(A) School Principal or designated school staff representative endorsed by the school district, if one exists;~~
 - ~~(B) A parent who is a representative of or has the endorsement of a recognized school/parent organization, if one exists;~~
 - ~~(C) Representative endorsed by the local road authorities;~~
 - ~~(D) Local transportation committee, if one exists.~~

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0070

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0070 for readability and clarity.

CHANGES TO RULE:

737-025-0070

Project Selection Criteria for ~~Non-infrastructure~~ Education Grants ¶¶

The following criteria will be used to select projects to receive SRTS Fund grants:¶¶

(1) Technical Merit:¶¶

~~(a) Conformance to the local transportation plan, state land use laws and appropriate federal, state and local planning and programming requirements.¶¶~~

~~(b)~~ Adherence to appropriate design standards or methodology if applicable.¶¶

~~(c)~~ Appropriate scope of work in relation to identified needs.¶¶

~~(d)~~ Emphasis on best practices learned from prior successful SRTS programs.¶¶

~~(e)~~ Efficient and cost-effective use of funds.¶¶

(2) Benefit:¶¶

(a) Potential to improve the ability of students to walk and bicycle to school.¶¶

(b) Potential to reduce or avoid child injuries and fatalities.¶¶

(c) Potential to reduce the barriers and hazards to children walking or bicycling to school.¶¶

(3) Support and readiness:¶¶

(a) Support of the school district, if applicable, and governing body for the project as demonstrated by a letter of support and endorsement.¶¶

(b) Readiness to proceed with the project as demonstrated by a proposed start date, identification of other available funding, or other indicators as provided by the applicant.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0080

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0080 for readability and clarity.

CHANGES TO RULE:

737-025-0080

Project Selection and Awarding ~~Non-infrastructure~~ Education Grants ¶¶

(1) ~~TSD~~DO will review the applications to determine if:¶¶

(a) The ~~A~~applicant and the project are eligible for a SRTS Fund grant; and¶¶

(b) The project proposal complies with the appropriate standards or practices for the work described.¶¶

(2) The Safe Routes to School Advisory Committee will evaluate and rank eligible applications and submit funding recommendations to the ~~TSD Administrator and the OTSC.~~¶¶

~~(3) The TSD Administrator will propose OTSC.~~¶¶

(3) TSO staff will present SRAC funding recommendations for projects to the OTSC in order to award grants based on the criteria established in OAR 737-025-0070.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0090

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0090 for readability and clarity.

CHANGES TO RULE:

737-025-0090

Safe Routes to School ~~Infra~~Construction Grants Program Description

Funds shall be provided for grants that support biking ~~and walking and bicycling~~ infrastructure safety improvement projects to and from schools.¶

(1) Project Identification Grant Program - up to 2.5 percent available funding shall go towards a project identification assistance grant that leads to the identification and eventual construction of projects that reduce barriers and hazards to children walking or bicycling to and from school, including but not limited to development of Safe Routes to School Infrastructure Plans described in OAR 737-025-0060(2)94.¶

(2) Rapid Response Grant Program - up to 10 percent of available funding shall go towards a rapid response grant program. The Rapid Response Grant Program ~~will run~~ between the Competitive Grant Program selection cycles.¶

(3) Competitive Grant Program - all remaining available funds shall ~~go towards~~ be allocated to a competitive grant program, with a regularly reoccurring solicitation process.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0091

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0091 for readability and clarity, amend section (1)(b)(A) to reflect passage of House Bill 2099 to expand project proximity to within a 2-mile radius of a public school, and amend sections (2)(b) and (2)(c) to reflect cash match conditions.

CHANGES TO RULE:

737-025-0091

Eligible Entities, Projects, and Activities for ~~Infra~~Infrastructure Grants

(1) For the Rapid Response and Competitive Grant Programs:¶

(a) Eligible entities include: ODOT, cities, counties, transit district, tribes and any eligible road authority as defined under ORS 810.010.¶

(b) Eligible projects must:¶

(A) Be within ~~one mile~~ a two-mile radius of a public school.¶

(B) Provide safety improvements that reduce barriers and hazards to children walking or bicycling to and from school, including but not limited to: ~~creation of or improvements to sidewalks or bikeways, reductions in vehicle speeds, and improvements to~~ be the safety improvement projects described in ORS 184.742(5).¶

(C) Fit within a plan developed pursuant to ORS 195.115. Plans may include, but are not limited to: ~~a Safe Route to School Action Plan or Safe Route to School Infrastructure Plan (OAR 737-025-0060),~~ a Transportation System Plan, or other locally adopted plan.¶

(D) Be approved by the roadway authority (governing body).¶

(E) Include, in the application materials, a letter of support from the school district or impacted school.¶

(F) Provide a cash match as described in section (2) of this rule. ¶

(2) Cash match:¶

(a) An eligible project must provide a cash match of at least 40 percent of the total project's costs; or, except as provided in this section (2).¶

(b) For the Competitive Program the OTC may reduce the Cash Match requirement to at least 20~~10.27~~ percent of the total project's costs and when one of the following conditions apply, or may reduce the Cash Match to at least 0 percent if multiple conditions apply:¶

(i) The school is located in a city with a population of 25,000 or fewer;¶

(ii) The project reduces hazards within a Priority Safety Corridor; or¶

(iii) The school site qualifies as a Title I School.¶

(c) For the Rapid Response Program, the ODOT Director may reduce the Cash Match to at least 20~~10.27~~ percent of the total project's costs when one or more of the following conditions apply, or may reduce the Cash Match to at least 0 percent if multiple conditions apply:¶

(i) The school is located in a city with a population of 25,000 or fewer;¶

(ii) The project reduces hazards within a Priority Safety Corridor; or¶

(iii) The school site qualifies as a Title I School.¶

(d) A~~PA~~ project built with funds received from a past ODOT Safe Routes to School grant may not be considered Cash Match and project expenditures can only be used as Cash Match once. The Safe Routes to School Advisory Committee may increase ability of applicants to claim project expenditures as Cash Match up to 120 months before the application is submitted when one or more of the following conditions apply:¶

(i) The school is located in a city with a population of 25,000 or fewer;¶

(ii) The project reduces hazards within a Priority Safety Corridor; or¶

(iii) The school site qualifies as a Title I School.¶

(23) For the Project Identification Grant Program:¶

(a) Eligible entities include ODOT.¶

(b) ODOT must provide a cash match of at least 40 percent ~~of the total grant award.~~ The OTC may reduce the match.¶

(c) ODOT or its consultants must use the grant award to provide technical assistance to cities, counties, tribes, school districts, or any public-funded agency in support of identifying infrastructure projects that reduce barriers and hazards of children ~~by walking or walking~~ bicycling to school.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0092

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0092 for readability and clarity.

CHANGES TO RULE:

737-025-0092

Project Selection Criteria for ~~Infra~~Infrastructure ~~reion~~ Grants

(1) The following criteria will be used to select projects for the ~~infra~~Infrastructure Competitive Grant Program:¶

(a) Technical Merit:¶

(A) Conformance to plan developed pursuant to ORS 195.115, state land use laws and appropriate federal, state and local planning and programming requirements;¶

(B) Adherence to appropriate design standards of methodology;¶

(C) Appropriate scope of work in relation to identified needs; and ¶

(D) Ability to provide at least the minimum required cash match.¶

(b) Benefit:¶

(A) Potential to reduce or avoid child injuries and fatalities;¶

(B) Potential to improve the ability of students to walk and bicycle to school; and ¶

(C) Potential to improve community outcomes, such as public safety (e.g., Priority Safety Corridor), equity (e.g., Title I schools), or livability.¶

(c) Project Characteristics:¶

(A) ~~School type~~;¶

~~(B) Proximity to a school~~;¶

~~(C) Relationship to ongoing or planned non-infrastructure work~~; and ¶

(d) Support and Readiness:¶

(A) Support of the school district and governing body for the project as demonstrated by a letter of support and endorsement; and ¶

(B) Readiness to proceed with the project as demonstrated by a proposed start date, identification of other available funding, or other indicators as provided by the applicant.¶

(2) The following criteria will be used to select projects for the ~~infra~~Infrastructure Rapid Response Grant Program:¶

(a) All of the criteria for Competitive Program;¶

(b) A clear sense of urgency, including a ~~convincing~~compelling reason why the project cannot wait for the next selection cycle of the Competitive Grant Program, and why it was not submitted in the last cycle;¶

(c) Strong state, regional, or local support for advancing the project immediately; and ¶

(d) Represents an immediate need or opportunity;¶

(A) An immediate "need" is considered a crash or several near-misses that have occurred within proximity to one another and a SRTS project is needed as soon as possible to address the safety problem.¶

(B) An immediate "opportunity" is considered a project that has started or is about to start where the project can exceed the minimum match requirement to significantly improve safety near a school.¶

(3) The OTC ~~will prioritize~~ projects within a ~~one~~two-mile radius of a public school that serves students in pre-kindergarten, ~~kindergarten, or through~~ grades 1-8, ~~2~~ or any combination of those grade levels, ~~or a school that serves students in kindergarten through grade 12, and~~. The OTC will establish additional priorities from the project selection criteria each solicitation cycle.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

AMEND: 737-025-0093

RULE SUMMARY: ODOT proposes to amend OAR 737-025-0093 for readability and clarity and amend section (4) to update PDA to ODOT.

CHANGES TO RULE:

737-025-0093

Award of ~~Infrastructure~~ Infrastructure Grants

(1) ODOT will review letters of intent and applications to determine if:¶

(a) The Applicant and the project are eligible for an infrastructure grant;¶

(b) The Applicant proposal complies with the appropriate standards or practices for the work described; and¶

(c) The grant application is complete.¶

(2) The Safe Routes to School Advisory Committee ~~will evaluate~~ will evaluate eligible applications and submit funding recommendations to the Oregon Transportation Commission for ~~the~~ Competitive Program grants and to the ODOT Director for ~~the~~ Rapid Response Program grants. When reviewing applications for Rapid Response and Project Identification Program grants, a sub-committee of SRTS Advisory Committee may convene ~~in order to~~ make recommendations about the application.¶

(3) The Safe Routes to School Advisory Committee or sub-committee recommendations ~~will be~~ will be forwarded to the Oregon Transportation Commission for the Competitive Program grants and to the ODOT Director for the Rapid Response grants for consideration of approval of grants for funding.¶

(4) Project Awardees shall enter into a Grant Agreement with ~~TDD~~ ODOT prior to release of any grant funds.¶

(5) Project Awardees are responsible for any cost overages that occur during project delivery.

Statutory/Other Authority: ORS 184.619, 184.740, 184.741, 184.742

Statutes/Other Implemented: ORS 184.741, 184.742

ADOPT: 737-025-0094

RULE SUMMARY: ODOT proposes to adopt OAR 737-025-0094 Safe Routes to School Infrastructure Plan and include the infrastructure plan language from repealed OAR 737-025-0060.

CHANGES TO RULE:

737-025-0094

Safe Routes to School Infrastructure Plan

A Safe Routes to School Infrastructure Plan must:

(1) Identify existing conditions identified as physical barriers and hazards to children walking or bicycling to and from school.

(2) Prioritize the most critical infrastructure needs, projects, and priorities.

(3) Be a product of work by local interested parties that must include representation of the following groups (a single person may represent multiple groups):

(a) School Principal or designated school staff representative endorsed by the school district, if one exists;

(b) A parent who is a representative of or has the endorsement of a recognized school/parent organization, if one exists;

(c) Representative endorsed by the local road authorities; and

(d) Local transportation committee if one exists.

Statutory/Other Authority: ORS 184.619, ORS 184.740, ORS 184.741, ORS 184.742

Statutes/Other Implemented: ORS 184.741, ORS 184.742