



# Oregon

Theodore R. Kulongoski, Governor

## Department of Transportation

Office of the Director

Rm 135

355 Capitol St. NE

Salem, Oregon 97301-3871

**DATE:** May 18, 2009

**TO:** Oregon Transportation Commission

**FROM:** Matthew L. Garrett  
Director

FILE CODE:

**SUBJECT:** Consent 14 - Proposed Emergency Administrative Rule 731-050-0030

**Requested Action:**

Consider adoption of proposed emergency administrative rule for the determination of the amount of federal transportation funds for allocation to certain non-highway transportation projects and purposes.

**Background:**

Under Oregon Administrative Rule 731-050-0030 an amount of federal transportation funds as determined by the commission would be made available for non-highway transportation projects and purposes including transit, elderly and disabled transportation, bicycle and pedestrian, and carpool projects.

**Copies (w/attachments) to:**

Doug Tindall  
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Region Managers



CHAPTER 731, DIVISION 50  
HIGHWAY AND NONHIGHWAY PROJECTS

**731-050-0030**

**Allocation of funds for nonhighway transportation projects and purposes**

(1) Annually, the Oregon Transportation Commission (Commission) shall determine the amount that will be available for nonhighway transportation projects and purposes from certain federal transportation funds apportioned to the State under the Surface Transportation Program (STP), 23 United States Code (USC) 133 and the Congestion Mitigation and Air Quality Improvement Program (CMAQ), 23 USC 149. The determination of the amount of funds available for nonhighway transportation projects and purposes shall not exceed an amount that would disqualify the State of Oregon from applying for discretionary grants of federal highway funds.

(2) From the amount established in section 1 of this rule, the Commission shall dedicate the first \$14 million to any transportation project or purpose as determined by the Commission. The Commission shall approve the distribution of the remaining funds to eligible nonhighway transportation projects and purposes of which an amount no less than ten percent shall be dedicated for projects eligible under the Oregon Department of Transportation Elderly and Disabled Transportation Program.

(3) For the purposes of sections 1 and 2 of this rule, eligible nonhighway transportation projects and purposes include but may not be limited to:

- (a) Transportation planning, research and data collection as authorized by 23 USC 505;
- (b) Elderly and Disabled Transportation Program as authorized by ORS 391.800;
- (c) Bicycle and pedestrian projects as authorized by 23 USC 217;
- (d) Transit capital projects as authorized by 23 USC 133 and 23 USC 149;
- (e) Transit operating assistance, limited to new or expanded transportation service as authorized by 23 USC 149;
- (f) Carpool projects and fringe and corridor parking facilities, as authorized by 23 USC 133.

(4) For the purposes of sections 1 and 2 of this rule certain federal transportation funds means those funds allocated to the State pursuant to the STP, 23 USC 133 and the CMAQ Program, 23 USC 149.

Stat. Auth.: ORS 184.616, 184.619, 366.205, 367.050

Stats. Implemented: 184.616, 184.619, 366.205, 367.010, 367.050

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Transportation, Transportation Development Division  
Agency and Division

731  
Administrative Rules Chapter Number

In the Matter of Adoption of 731-050-0030

**Rule Caption:** Use of federal transportation funds for nonhighway transportation projects and purposes.

**Statutory Authority:** ORS 184.616, 184.619, 366.205, 367.050

**Other Authority:** None

**Statutes Implemented:** ORS 184.616, 184.619, 366.205, 367.010, 367.050

**Need for the Temporary Rule(s):** The Oregon Department of Transportation will determine the amount of federal funds available for eligible nonhighway projects and purposes, and annually to distribute an amount of those funds for those projects and purposes.

**Documents Relied Upon, and where they are available:** None

**Justification of Temporary Rules(s):** The Department has been asked to help Oregon's economic recovery. This rule will help expedite that implementation by ensuring that needed transportation projects are funded. Failure to act promptly could delay implementation of needed projects and could delay economic recovery for the state.

\_\_\_\_\_  
Authorized Signer

\_\_\_\_\_  
Jerri Bohard, TDD Administrator  
Printed name

\_\_\_\_\_  
Date