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**PERMANENT ADMINISTRATIVE ORDER**

**DOD 4-2024**

CHAPTER 734  
DEPARTMENT OF TRANSPORTATION  
DELIVERY AND OPERATIONS DIVISION

**FILED**

12/05/2024 8:19 AM  
ARCHIVES DIVISION  
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& LEGISLATIVE COUNSEL

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FILING CAPTION: Establishes grant program for environmental product declarations of specified construction materials.

EFFECTIVE DATE: 12/05/2024

AGENCY APPROVED DATE: 10/28/2024

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**RULES:**

734-023-0005, 734-023-0015, 734-023-0030, 734-023-0040, 734-023-0050, 734-023-0060, 734-023-0070, 734-023-0080

ADOPT: 734-023-0005

RULE TITLE: Purpose of the Rules

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Establishes the grant program's purpose to offer financial support to bidders or proposers who must provide an EPD in order to respond to an ODOT invitation to bid or request for proposal.

**RULE TEXT:**

(1) ORS 184.879 requires an environmental product declaration of covered materials to be submitted to the Department to facilitate the Department's development of strategies to reduce greenhouse gas emissions from the Department's purchase and use of Covered Materials.

(2) The purpose of these rules, OAR 734, Division 23, is for the Department to establish the Environmental Product Declaration Support Fund as the account required by ORS 184.879 and provide grants to bidders and proposers that require financial assistance to prepare environmental product declarations.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0015

RULE TITLE: Definitions and Acronyms

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Defines key words and acronyms applicable to the grant program, including the scope of materials covered by the program (concrete, asphalt paving mixtures and steel) as defined in ORS 184.879.

RULE TEXT:

For the purposes of these OAR 734, Division 23 rules, the definitions in ORS 184.879 and the following terms apply:

- (1) "Applicant" means a "bidder" or "proposer," as those terms are defined in ORS 279A.010, that applies for funds from the Environmental Product Declaration Support Fund.
- (2) "Covered materials" means:
  - (a) Concrete, including ready mix concrete, shotcrete, precast concrete and concrete masonry units;
  - (b) Asphalt paving mixtures; and
  - (c) Steel, including rebar, reinforcing steel and structural steel, hot-rolled sections, hollow sections, plate steel and cold-formed steel.
- (3) "Department" means the Oregon Department of Transportation.
- (4) "Director" means the Director of the Oregon Department of Transportation or the Director's designee.
- (5) "Environmental product declaration" has the meaning given in ORS 184.879.
- (6) "Material supplier" means a company that produces or supplies a covered material to the Department.
- (7) "Program" means the Environmental Product Declaration Support Fund Program established by these OAR 734, Division 23, rules to administer the Environmental Product Declaration Support Fund.
- (8) "Program funds" means the money appropriated by the Legislature to the Environmental Product Declaration Support Fund.
- (9) "Recipient" means an applicant that is awarded grant funds by the Department from the Environmental Product Declaration Support Fund.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0030

RULE TITLE: Grant Application Procedure and Application Submission Periods

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Describes grant application procedures and application submission periods, including when ODOT will announce the period for submitting applications.

RULE TEXT:

(1) The Department will announce the period for submitting applications for funding from the Environmental Product Declaration Support Fund no later than December 31, 2026.

(2) The Environmental Product Declaration Support Fund operates on a first-come, first-served basis. Applications are reviewed for compliance with the requirements set forth in OAR 734-023-0040 through 734-023-0060. The Department will award funding for applications that meet the requirements so long as there are remaining funds available.

(3) Applications are deemed complete upon receipt of all required documentation as described in OAR 734-023-0060.

(4) Subject to the availability of funds in the Environmental Product Declaration Support Fund, the Department will award grants to completed applications that it finds meet all eligibility criteria.

(5) The Environmental Product Declaration Support Fund will close once the Department has awarded all available funds.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0040

RULE TITLE: Who May Apply for Environmental Product Declaration Support Fund Grants

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Sets out eligibility requirements for applicants (Bidders and Proposers as defined in ORS 279A.010); including the requirement that eligible applicants may not have previously received external funding to develop an EPD for materials subject ORS 184.879).

RULE TEXT:

(1) An eligible applicant for the Environmental Product Declaration Support Fund is a Bidder or Proposer, as defined in ORS 279A.010.

(2) An eligible applicant, if applicable, must also be current on all state and local taxes, fees and assessments.

(3) At the time of applying to the Environmental Product Declaration Support Fund for a grant, an eligible applicant may not have previously received external funding to develop an environmental product declaration for a covered material.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0050

RULE TITLE: Eligible Activities for Environmental Product Declaration Support Fund Grants

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Describes activities eligible for a reimbursement grant (education costs for employees and general fees related to the preparation and publication of relevant EPDs).

RULE TEXT:

An eligible applicant, as described in OAR 734-023-0040, may apply for reimbursement for activities related to the publication of a third party verified environmental product declaration that complies with ISO 14025 for a covered material that is subject to ORS 184.879. Eligible activities include:

- (1) Education costs for employees related to the preparation of an environmental product declaration; and
- (2) Fees directly related to the preparation and publication of a relevant environmental product declaration.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0060

RULE TITLE: Grant Application Requirements

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Describes grant application requirements.

RULE TEXT:

(1) An applicant interested in receiving a grant from the Environmental Product Declaration Support Fund must submit an application to the Department in conjunction with a response to a Department invitation to bid or request for proposal that includes the procurement of covered materials. The application must be in a format prescribed by the Department and contain or be accompanied by such information required by the Department, including:

(a) A formal bid or proposal to contract with the Department, submitted to the Department within the last 12 months from the date of applying for grant funding, or other documentation deemed appropriate by the Department to prove compliance with the eligibility requirement of OAR 734-023-0040(1);

(b) A web link to the published third party verified environmental product declaration that complies with ISO 14025;

(c) An invoice that details all expenses related to the preparation and publication of the environmental product declaration;

(d) Copies of receipts from qualified expenses; and

(e) Identification of the business or entity that is providing the covered material to the bidder or proposer for which an environmental product declaration is required by the Department.

(2) Incomplete applications will be deemed ineligible by the Department.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0070

RULE TITLE: Application Review

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: Describes the Department's grant application review processes, including limiting grant eligibility to those EPDs that have not previously received funding to offset costs of preparation the EPD.

RULE TEXT:

(1) The Department reviews applications it receives to determine:

(a) Whether the application is complete, in accordance with the requirements of OAR 734-023-0060;

(b) Whether the applicant and the project are eligible for program funds, in accordance with the requirements of OAR 734-023-0040 and 734-023-0050; and

(c) Whether the application for reimbursement is for a new environmental product declaration of a covered material that has not previously received funding from the Environmental Product Declaration Support Fund or other known external funding source intended to offset costs associated with preparing environmental product declarations.

(2) If, pursuant to section (1) of this rule, the Department determines that an application is not complete, the applicant or project is not eligible for program funds, or the application or reimbursement is for an environmental product declaration of a covered material that has previously received funding, the Department will notify the applicant that the application request is incomplete or ineligible. The Department may also determine that an application is ineligible or incomplete as follows:

(a) An application is ineligible if the applicant fails to meet the eligibility requirements in OAR 734-023-0040 and 734-023-0050 or if the application contains false or misleading information.

(b) An application is incomplete if it is not in the format prescribed by the Department or is not accompanied by information required by the Department.

(3) The Department will consider protests of the eligibility or completeness determination for the project. Only the applicant may protest. An applicant must submit a protest in writing to the Department within 15 days of the event or action that is being protested. The Department's Director, or the Director's designee, will make a final determination of an applicant's protest.

(4) The Department will make all eligible applications available to the House Bill 4139 Technical Advisory Committee.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879

ADOPT: 734-023-0080

RULE TITLE: Grant Awards and Match

NOTICE FILED DATE: 09/23/2024

RULE SUMMARY: States award amount specifications, including a limit on reimbursements, which may not exceed \$7,000 or 80% of total costs associated with eligible activities per applicant, whichever is less.

RULE TEXT:

(1) Once an application is reviewed by the Department under OAR 734-023-0070, and deemed eligible by the Department under OAR 734-023-0040 through 734-023-0060, the amount of monies identified by the Department is considered allocated from the Environmental Product Declaration Support Fund to a recipient based on their application.

(2) Grants are awarded only when there are sufficient funds available in the Environmental Product Declaration Support Fund to cover the costs of the grants.

(3) Reimbursement per applicant may not exceed \$7,000 or 80% of total costs associated with eligible activities described in OAR 734-023-0050, whichever is less.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.879

STATUTES/OTHER IMPLEMENTED: ORS 184.879