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RULES PROPOSED:

736-008-0005, 736-008-0010, 736-008-0015, 736-008-0020, 736-008-0025, 736-008-0030, 736-008-0045, 736-008-0050, 736-008-0055

AMEND: 736-008-0005

RULE TITLE: Purpose of Rule

RULE SUMMARY: Clarifies purpose for division of rules.

RULE TEXT:

This division establishes the procedures and requirements used by the Oregon Parks and Recreation Department, State Liaison Officer, when distributing federal Land and Water Conservation Fund monies to eligible: state agencies and local governments, and the process for establishing the priority order in which projects shall be funded.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

REPEAL: 736-008-0010

RULE TITLE: Statutory Authority and Procedure

RULE SUMMARY: Deletes statutory authority because it is now included at the end of each rule.

RULE TEXT:

ORS 390.180 requires the Director of the State Parks and Recreation Department to adopt rules establishing procedures the State Parks and Recreation Department shall use when the Department allocates money to local governments or other state agencies.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0015

RULE TITLE: Federal Requirements

RULE SUMMARY: Updates federal manual referenced and eliminates language that is unnecessary.

RULE TEXT:

The Land and Water Conservation Fund Act of 1965, as amended, provides matching grants to states and local units of government for acquisition and development of public outdoor recreation areas and facilities. All applicants for federal funding assistance must also satisfy the requirements delineated in the “National Park Service’s Land and Water Conservation Fund Grants Manual,” Volume 71 (March 11, 2021).

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0020

RULE TITLE: Definitions

RULE SUMMARY: Updates definition language and eliminates definitions not utilized in the division.

RULE TEXT:

For the purposes of this division the following definitions shall apply, unless the context clearly indicates otherwise:

- (1) "Acquisition" — The gaining of property rights, including but not limited to fee title or easements, for public use by donation or purchase.
- (2) "Conversion" — Property acquired, developed, or both with LWCF assistance that has been wholly or partly converted to other than public outdoor recreation uses.
- (3) "Current Park Master Plan" — A site-specific resource based plan guiding park acquisition, development, protection and management of park areas and facilities.
- (4) "Department" — The Oregon Parks and Recreation Department.
- (5) "Development" — The construction, rehabilitation, or expansion of facilities necessary for the use and enjoyment of public outdoor recreation resources.
- (6) "Director" — The Director of the Oregon Parks and Recreation Department.
- (7) "Implementation Program" — A requirement of SCORP which identifies salient recreation issues to be addressed over a two-year period.
- (8) "Land and Water Conservation Fund (LWCF)" — Those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).
- (9) "Local Comprehensive Plan" — The comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS chapter 197.
- (10) "Major Rehabilitation" — The repair, restoration, or reconstruction of eligible facilities which is necessitated by obsolescence, building code changes, accessibility standards, or normal wear and tear not attributed to lack of maintenance.
- (11) "Oregon Application Procedures Manual" — A manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in LWCF assistance.
- (12) "Oregon Outdoor Recreation Committee (OORC)" — The committee appointed by the Director to prioritize LWCF project applications.
- (13) "Outdoor Recreation Legacy Partnership Program (ORLAP)" means the complementary federal

grant program to the LWCF state-side formula grants program which supports projects that will acquire land for or develop outdoor recreation spaces in urban areas.

(14) “Project Sponsor” — The recipient of the grant funds and the agency responsible for implementation of the project and the maintenance and operation of the site.

(15) “State Comprehensive Outdoor Recreation Plan” — Otherwise known as SCORP, the document used to identify and assess Oregon outdoor recreation needs.

(16) “State Liaison Officer (SLO)” — Designated by the Governor, the Director and their designees who have the responsibility to administer the stateside LWCF.

(17) “State/Local Agreement” — Agreement between the state and project sponsor which authorizes the project to begin.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0025

RULE TITLE: Apportionment of Monies Between State and Local Agencies

RULE SUMMARY: Updates process for apportioning funding and accounting for administrative costs.

RULE TEXT:

(1) Monies apportioned annually by the Department of Interior to the state from the federal Land and Water Conservation Fund shall be distributed, after covering administrative costs of the office of the State Liaison Officer to operate the program:

(a) Not less than 60 percent of the remainder to units of local government; and

(b) Up to 40 percent of the remainder to eligible state agencies.

(2) Monies derived from project underruns, project cancellations, reduction in project scope may be made available to the Director to redistribute to state or local projects, subject to the discretion of the Secretary of the Interior.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0030

RULE TITLE: Conversions

RULE SUMMARY: Adds requirements for properties seeking conversions.

RULE TEXT:

(1) Conversion Requirements: Property acquired or developed with LWCF and ORLP assistance shall be retained and used for public outdoor recreation in perpetuity. Any property so acquired, developed, or both shall not be wholly or partly converted to other than public outdoor recreation uses without the approval of the Department and of the National Park Service pursuant to the LWCF Act (54 U.S.C. section 200305(f)(3) and the regulations in of the LWCF Act, 36 CFR Part 59, and the regulations in the National Park Service's Land and Water Conservation Fund Grants Manual," Volume 71 (March 11, 2021).

(a) If the current lease is within 5 years of termination, the Department will require a letter of intent to renew the lease from the leasing agency. Project sponsors must insure that the land within the project boundary will be used only for park and recreational purposes, Project Sponsor controls or will control the land, and that the Project Sponsor will not change the use of, sell, or otherwise dispose of land within the LWCF boundary, except upon approval of the Department and the National Park Service.

(b) Project Sponsors that have not addressed or submitted documentation to the Department or the National Park Service for review and approval of an active conversion through the Land and Water Conservation Fund Program are not eligible to apply for LWCF funding assistance.

(c) Project Sponsors who have addressed a conversion at the local level and have submitted documentation to the Department, the National Park Service, or both for review and approval of the conversion through the LWCF program may apply for funding assistance.

(2) Assessment for Services. Any project sponsor requesting a conversion may be required to pay an advance deposit to the Department. The deposit would cover staff salary and Other Payroll Expenses (OPE), and administrative fees to process the conversion. The advance deposit amount will be based on the appraised value of the property to be converted. If the advance deposit does not cover all costs, the project sponsor will be billed for the balance due. If the total costs are less than the deposit, the Department will reimburse the project sponsor for the unused deposit amount.

(a) Converted property appraised up to \$50,000 will require a \$1,000 deposit;

(b) Converted property appraised from \$50,001 to \$100,000 will require a \$2,000 deposit;

(c) Converted property appraised above \$100,000 will require a \$3,000 deposit.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0045

RULE TITLE: Application Procedure

RULE SUMMARY: Updates the application documents and process.

RULE TEXT:

The purpose of this rule is to set forth requirements that applicants must meet in submitting an application for LWCF or ORLP funding assistance.

(1) Applicant Eligibility. Public agencies eligible for LWCF funding assistance are:

(a) Local Governments:

(A) City Park and Recreation Departments;

(B) County Park and Recreation Departments;

(C) Park and Recreation Districts;

(D) Port Districts;

(E) Indian Tribes in Oregon;

(F) Metropolitan Service Districts.

(b) State Agencies:

(A) Oregon Parks and Recreation Department;

(B) Oregon Department of Fish and Wildlife;

(C) Oregon Department of Forestry;

(D) Oregon Department of State Lands.

(c) ORLP: In addition to the requirements in (a) and (b), an applicant must also meet the National Park Service population requirements and be located within an Urbanized Area.

(2) Matching Requirements. Minimum match requirements are 50 percent of total eligible project costs. Match requirements may be reduced upon the discretion of the National Park Service. The eligible match may include local budgeted funds, donated funds, and value of private donated property, equipment, materials, labor, or any combination thereof. Engineering and administration costs and costs incurred prior to the State/Local Agreement cannot exceed 15 percent of the total project costs.

(a) The LWCF Act prohibits the use of other federal financial assistance in a project assisted with LWCF, except in those instances where the statutory provisions of a subsequent federal grant-in-aid

program explicitly allows recipients to use such assistance to match another federal grant.

(b) For LWCF: The minimum federal share shall be no less than \$75,000 (\$150,000 total project costs), unless otherwise authorized by the Director.

(c) For ORLP: The minimum and maximum federal share are established by the National Park Service.

(3) Projects Eligible for Funding:

(a) Projects eligible are acquisition, development and major rehabilitation projects that are consistent with the outdoor recreation goals and objectives contained in the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and the Implementation Program, and recreation elements of local comprehensive plans, and which satisfy the requirements of the federal LWCF Program.

(b) Marine facility and related support facility development requests are eligible for funding. Projects which use funds from the federal Dingell-Johnson Act may not be used as match.

(4) Local Agency Requirements. Local agencies participating in the LWCF funding assistance program must show that:

(a) There is a current park master plan in effect and that the project is consistent with the local comprehensive land use plan and SCORP; or

(b) There is not a current park master plan in effect, but the project is consistent with the local comprehensive land use plan or a current local planning document and SCORP.

(5) State Agency Requirements. State agencies participating in the fund assistance program must identify that the project is in their legislatively approved biennial budget, is mandated by legislation, or has support from agency leadership.

(6) Application Procedure.

(a) All applications for funding assistance for outdoor recreation projects must be submitted in a format prescribed by the Department. All applications must be consistent with the Oregon Application Procedures Manual and at a minimum, each application must contain the following information:

(A) Project narrative;

(B) Environmental resources survey;

(C) Maps:

(i) LWCF boundary map;

(ii) Site Plan;

(iii) Urban growth boundary map; and

(iv) Vicinity Map.

(D) State agency review;

(E) Property deed or lease agreement. The Department will not approve development of facilities on leased land except for property either:

(i) Leased from the Federal Government with no less than 25 years remaining on the lease and is not revocable at will; or

(ii) Leased from one public agency to another for 25 years or more, provided that safeguards are included to adequately ensure the perpetual use requirement of the LWCF Act. Such safeguards may include joint sponsorship of the proposed project or other agreement whereby the lessor land-owning agency would provide assurances that it would assume compliance responsibility for the LWCF boundary area in the event of default by the lessee or expiration of the lease, and these assurances are explicitly reflected in the project agreement.

(F) Estimate of project costs and schedule;

(G) Documented Americans with Disabilities Act Compliance Plan specific to projects;

(H) Certification by applicant of availability of local match;

(I) All required permits and certifications as identified in the Oregon Applications Procedures Manual;

(J) Land Use Compatibility Statement completed by the appropriate planning department;

(K) Other documentation that may be required by the Department.

(b) Additional requirements for acquisition projects:

(A) Appraisal. Appraisals must conform to the Uniform Appraisal Standards for Federal Land Acquisitions;

(B) Appraisal Review;

(C) Preliminary title report; and

(D) Proof of willing seller or donor.

(7) Application Process:

(a) The Department shall announce through a variety of media the availability of, procedures for,

deadlines, and other information for applying for LWCF or ORLP funding assistance. The Department shall not consider incomplete applications or applications submitted after the deadline set by the Department. The Department Grants Program staff shall perform a technical review of all applications and forward eligible applications for LWCF funding assistance to the OORC. The OORC will meet to evaluate the applications and make recommendations to the Director for Oregon Parks and Recreation Commission approval for all eligible projects submitted.

(b) ORLP: Applications submitted for ORLP funding assistance will be submitted to the Oregon Parks and Recreation Commission for approval to apply to National Park Service.

(8) Project administration:

(a) A signed state/local agreement shall constitute project authorization. No project may begin without a signed state/local agreement from the Department;

(b) The project sponsor shall have one year from the date of authorization to begin substantial work (i.e., the award of contracts or to complete at least 25 percent of the work, if done by force account). Force account work is work on a development project with the forces and resources of the project sponsor. Projects not conforming to this schedule will be canceled, unless substantial justification warrants an extension.

(c) The Department may grant an extension for a six month period. Further extensions may be granted with substantial justification and contingent upon the Department having received sufficient funding, appropriations, limitations, allotments, or other authority.

(d) All projects shall be completed and billed within two years from the authorization date. Projects will be inspected and audited by the Department, or its designee prior to final grant payment. Partial payments up to 75 percent of the grant amount may be billed during the project for work completed.

(e) Project amendments that increase the federal share will generally not be allowed. Project amendment requests based on extraordinary circumstances will, however, be reviewed on a case-by-case basis. Requests for time extensions must be approved by the Department prior to expiration of the approved project period as set forth in the state/local agreement.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0050

RULE TITLE: Oregon Outdoor Recreation Committee

RULE SUMMARY: Updates process for selecting members and calling a meeting of the grant review committee.

RULE TEXT:

(1) The OORC shall be composed of nine members appointed by the Director. The OORC membership, to serve nonconcurrent four-year terms, shall represent the following interests:

(a) Counties east of the Cascade Mountains;

(b) Counties west of the Cascade Mountains;

(c) Cities under 15,000 people;

(d) Cities over 15,000 people;

(e) Park and Recreation Districts, Metropolitan Service District or Port Districts;

(f) State Parks and Recreation Department;

(g) People with Disabilities;

(h) Member of a historically underrepresented community; or Representatives from Tribal Governments; and

(i) The public at large;

(j) The chair shall be nominated and selected by the members of the OORC.

(2) Selection of committee members shall be from a list of not less than two candidates for each position to be supplied by:

(a) County representation shall be from lists supplied by the Oregon Recreation and Park Association's Counties & Outdoor Recreation Section (CORS) and the Association of Oregon Counties;

(b) City representation shall be from lists supplied by the Oregon Recreation and Park Association and the League of Oregon Cities;

(c) Park and Recreation District, Port District or Metropolitan Service District representation shall be from a list supplied by the Special Districts Association of Oregon;

(d) Representatives for People with Disabilities, Tribal Governments, Member of a historically underrepresented community, Public at Large, and Parks Department shall be selected by the Director.

(e) The Department may consult with other appropriate organizations not otherwise listed in

subsections (a) to (d) for committee membership candidates.

(3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by the Department according to the rates established by the Department of Administrative Services and approved by the Director.

(4) Function of OORC:

(a) The OORC shall meet upon the call of the Director or designee. The OORC will establish a priority order of eligible local government projects for LWCF funding assistance or provide other assistance as requested by the Department.

(b) Each applicant shall be allowed to make a presentation under a procedure established by the Department.

(5) Priority Selection Criteria. Projects shall be prioritized by the OORC based on at least the following:

(a) Department review and recommendations, including a technical review of each project that will include the extent to which projects satisfy basic outdoor recreation needs and urgent needs identified in SCORP, the extent the project meets the recreation needs identified in the local comprehensive land use plan, and applicant's past performance in their ability to complete and bill projects, maintain existing facilities, and whether there are any outstanding conversions;

(b) The OORC shall review all applications using project selection criteria, including but not limited to the following:

(A) Extent the project demonstrates user benefits, public interest and support;

(B) Extent the project demonstrates conformance with local and state planning guidelines, the SCORP and local Park Master Plans; all projects must be identified in local comprehensive plans and current park master plans or a current local planning document;

(C) Financial considerations, including cost/benefit ratio;

(D) Environmental resources survey

(E) Extent the project increases outdoor recreation opportunity in the service area.

(F) How well the project's design accommodates people with disabilities.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-008-0055

RULE TITLE: Emergency Procedure

RULE SUMMARY: updates language to be more accurate.

RULE TEXT:

(1) Under extreme conditions such as severe cut backs of federal funds or complete elimination of these funds an emergency procedure may be initiated at the discretion of the Director.

(2) The emergency procedure will establish new time lines and funding strategies to coincide with the time delay created at the federal level. The Director may delay or abolish time lines, and fund projects on the existing priority list with underruns and cancellations until either projects or money is exhausted.

(3) Under the emergency procedure the Director will notify prospective applicants of any anticipated time changes and assure applicants of adequate lead time in developing new time lines.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

