

State of Colorado

***Implementation of the
Safe Routes to Schools Program***



Dunn Elementary, Fort Collins, Colorado

SafeRoutes
Colorado Safe Routes to School



Force Elementary, Denver, Colorado

Code of Colorado Regulations, 2 CCR 602-4

*As Revised and Adopted by the
TRANSPORTATION COMMISSION OF COLORADO
October 30, 2007*

*Department of Transportation
4201 East Arkansas Avenue
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RULES and REGULATIONS

Of the Colorado Department of Transportation

Implementation of the Safe Routes to Schools Program

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RULES AND REGULATIONS OF THE COLORADO DEPARTMENT OF TRANSPORTATION

IMPLEMENTATION OF THE SAFE ROUTES TO SCHOOLS PROGRAM

I. PURPOSE

- A. The purpose of the Rule is to prescribe procedures for application and disbursement of federal funds to political subdivisions of the State, for projects to improve safety for pedestrians and bicyclists in School Areas, as authorized by § 43-1-1601 through 1604 of the Colorado Revised Statutes.
- B. Implementation of the Rule was determined by the Department to be necessary to carry out the purposes of Section 43-1-1601 et seq., concerning the "Safe Routes to School" program. The Rule was adopted for the following reasons: (1) to comply with Section 43-1-1604 of the Colorado Revised Statutes; (2) to establish the procedures to review and award grants; (3) to define essential terms; (3) to determine additional criteria and procedures under which the program will be managed.

II. STATEMENT OF BASIS AND SPECIFIC STATUTORY AUTHORITY

A. Statement of Basis

Sections 43-1-1601 through 43-1-1604 of the Colorado Revised Statutes were enacted in June 2004. Section 43-1-1604 of the Colorado Revised Statutes directs the Department to promulgate a rule for the implementation of a grant based program awarding federal funds to political subdivisions of Colorado to improve safety for pedestrians and bicyclists in school areas.

During September 2004, the Department formed a committee to review the statutory directive. The objective of the committee was to provide opportunity for input from stakeholders while developing the Rule, allow stakeholders to review and comment on the proposed Rule language, and develop understanding and consensus among stakeholders. Comments and concerns from the taskforce were considered in developing the Rule.

Stakeholders represented on the rulemaking committee included Bicycle Colorado, Colorado Dept. of Public Health and Environment, Colorado Dept. of Transportation Traffic Safety Office, Colorado Dept. of Transportation Bicycle/Pedestrian coordinator, and Colorado Dept. of Transportation policy staff.

The Department enacted the Rule in May 2005. The Department initiated the rulemaking process to amend the existing Rule in June 2007. The first amendment is needed to revise the contact person to be in compliance with job duties and responsibilities within the Department of Transportation, and Section 1404 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy of Users Act of 2005. The second amendment is necessary to attain continuity of services and leadership on the Advisory Committee. The Department will alleviate the need to recruit Advisory Committee members by retaining these members for a longer period. There are a limited number of Metropolitan Planning Organizations and Transportation Planning Regions members and their interest in serving has not continually been strong.

B. Specific Statutory Authority

The Rule is promulgated by the Department pursuant to the specific statutory authority of Sections 43-1-110 (2) and 43-1-1604 of Colorado Revised Statutes.

The Department published the required 24-4-103 notice and invited public comment and participation during the adoption process. The proposed rule, and the Statement of Basis, Purpose, and Specific Statutory Authority were made available to the public at least five (5) days prior to the hearing as required by Section 24-4-103(4) of the Colorado Revised Statutes.

The Department complied with Sections 2404-103(3) and 103.5 of the Colorado Revised Statutes notice requirements by providing a notice to the Office of Secretary of State and publication thereof in the Colorado Register, and by mailing a notice to all known interested parties. Any written comments from the public concerning or resulting from the Notice of Rulemaking are included as an exhibit in the Rule hearing record.

On February 4, 2005, the Department conducted a public hearing, concerning the proposed rule and received submissions, testimony, and evidence from the Department and other interested parties. All comments were considered and responded to by the Department, both in oral testimony at the hearing and by exhibits which were made part of the rulemaking record. The specific reasons for the Department responses to those comments are described in the record testimony and exhibits. All rule provisions resulting from these proceedings will be based upon the record of the February 4, 2005 public hearing.

The Department states that each of the five standards by Section 24-4-103(4)(b) of the Colorado Revised Statutes has been met. The record demonstrates the need for and the benefit to be derived from the adoption of the Rule, and demonstrates that the Rule needs to be adopted as directed by Colorado statutes pursuant to Section 43-1-1604 of the Colorado Revised Statutes. To the extent practicable, the Rule is clearly and simply stated. The Rule does not conflict with other provisions of the law.

The Department enacted the Rule in May 2005. The Department initiated the rulemaking process to amend the existing Rule in June 2007. A Notice of Rulemaking was submitted to the Colorado Secretary of State on June 15, 2007 and published in the Colorado Register on July 10, 2007.

On July 30, 2007, the Department conducted a public hearing, concerning the proposed amendments to the Rule and received submissions, testimony, and evidence from the Department and other interested parties. All amendment provisions will be based upon the record of the July 30, 2007 public hearing. The new rule shall be effective on September 30, 2007.

The Department states that each of the five standards by Section 24-4-103(4)(b) of the Colorado Revised Statutes has been met. The record demonstrates the need for the amendments. The amendments do not conflict with other provisions of the law. The amendment will be effective for the existing four appointed representatives from the Metropolitan Planning Organizations and the rural Transportation Planning Regions serving on the Advisory Committee.

III. DEFINITIONS

- A. Advisory Committee: means the committee appointed by the Executive Director as established in Section IV. of these rules.
- B. Applicant: means a political subdivision of the state of Colorado that applies for an award under these rules.

- C. Commission: means the Colorado Department of Transportation Commission.
- D. Department: means the Colorado Department of Transportation.
- E. Executive Director: means the Executive Director of the Colorado Department of Transportation.
- F. Hazard Elimination Program: means the Federal program outlined in the United States Code in Title 23, Section 152.
- G. MPO: means a Metropolitan Planning Organization.
- H. Non-system road or trail: means a road or trail that is not part of the State highway system.
- I. On-system road: means a road that is part of the State highway system.
- J. School Areas: means the area within a two mile radius of a school.
- K. STAC: means Statewide Transportation Advisory Committee as created in § 43-1-1104, C.R.S.
- L. Urbanized Area: means that area within the boundary of a metropolitan area having a population of fifty thousand or more as determined by the United States bureau of the census in its latest census and as included on the Urbanized Area map approved by the Department.

IV. ADVISORY COMMITTEE

- A. The Executive Director shall appoint an Advisory Committee to make recommendations to the Commission, which shall award grants under the Safe Routes to School Program. The Committee shall have no more than nine members, who shall receive no compensation for service on the Committee. Members serve at the pleasure of the Executive Director but shall be appointed for two-year terms. The Committee shall include at least one person from a statewide organization representing each of the following groups:
 - 1. Educators;
 - 2. Parents;
 - 3. Bicyclists;
 - 4. Pedestrians; and
 - 5. Law Enforcement Personnel
- B. In addition, the Advisory Committee shall include representatives of the STAC, who shall serve a two year term. The STAC shall choose their designees, with the approval of the Executive Director. STAC representatives to the Advisory Committee shall consist of:
 - 1. Two STAC representatives of Metropolitan Planning Organizations or their designee;
 - 2. Two STAC representatives of rural Transportation Planning Regions or their designee.

V. APPLICATION INFORMATION

- A. The Department will notify city and county governments, schools, and school districts of the potential availability of Safe Routes to Schools funds, requirements for requesting an application package, and the deadline to submit an application to the Department for Safe Routes to Schools funds.
- B. The application package, to be developed and periodically updated by the Advisory Committee, will contain instructions and guidelines for completion of the application, as determined by the Advisory Committee and the Department. Instructions and guidelines may not be in conflict with § 43-1-1601 through 1604, C.R.S.

VI. THRESHOLD CRITERIA FOR APPLICANT ELIGIBILITY

The purpose of this section is to describe the threshold criteria the Department and Advisory Committee will use to determine if an Applicant will be eligible for funding. The threshold criteria shall be more fully described in the guidelines adopted by the Advisory Committee and approved by the Transportation Commission. An Applicant must comply with all threshold criteria.

- A. Applicants must be political subdivisions of the state.
- B. A political subdivision of the state that receives money under this Part 16 of Article 1 of Title 43, may not use such moneys as a substitute for funds currently being used to support similar activities.
- C. In order for the Department to approve a political subdivision as eligible for the funds, the political subdivision must show that it has established an agreement with the school in the area where the project will occur. Such agreement of the improvement project must be documented and signed by an official of the school.
- D. An Applicant must submit the application to the Advisory Committee through CDOT's Safe Routes to Schools Coordinator, who will forward the application to the appropriate CDOT Region and MPO (if applicable) for comment.
- E. If the project request is greater than \$100,000 and located in an Urbanized Area, the application must be certified by the MPO. The certification shall demonstrate that all actions necessary to include the project(s) in the Transportation Improvement Program for that Urbanized Area will be taken before the application may be approved.
- F. An Applicant must ensure that all forms, assurances, and resolutions required by the application are signed by the appropriate officer or individual with authority to legally bind the Applicant.
- G. An Applicant requesting funding for items requiring continuous or periodic upkeep must demonstrate in the application the ability to provide funding for future project costs, including a 50% match if the project is On-system, or 100% of the maintenance if the project is on a Non-system road or trail. A letter from the political subdivision pledging necessary funds to upkeep the project is necessary.
- H. An Applicant must demonstrate that the local match will be available when required.
- I. On-system projects must not conflict with the State and Regional Transportation Plans.
- J. Applicant eligibility is contingent upon compliance with all state and federal laws and regulations. Applicants that fail to comply with all applicable federal and state laws, regulations and

requirements will not be considered eligible under these rules. Compliance by an Applicant with all threshold eligibility criteria does not obligate the Department to award funds, but only allows the Applicant to be evaluated by the Department and Advisory Committee for consideration for available funding based upon the evaluation criteria described in Section VII. of the Rules.

VII. EVALUATION CRITERIA

The purpose of this section is to describe the basic evaluation criteria used by the Department to determine whether an eligible Applicant will be funded and to assist in determining the level of funding to be awarded. Guidelines, instructions, and details concerning such evaluation criteria shall be described fully in the application package.

- A. The Advisory Committee shall create a scoring procedure utilizing the criteria described in this section.
- B. The Department and Advisory Committee will include the following criteria to evaluate eligible Applicants:
 - 1. The demonstrated need of the Applicant;
 - 2. The potential of the proposed project to reduce injuries and fatalities among children;
 - 3. The potential of the proposed project to encourage walking and bicycling to school;
 - 4. The extent to which the application identifies existing safety hazards;
 - 5. The extent to which the application identifies existing and potential walking and bicycling routes and the extent to which the proposed project would improve or connect them;
 - 6. Support for the proposed project from local school-based associations, traffic engineers, elected officials, law enforcement agencies, and school officials;
 - 7. The goal of funding projects throughout the state in proportion to the geographic distribution of the student population; and
 - 8. Other criteria allowed or required by applicable federal laws or regulations.

VIII. FUNDING

- A. The Department shall allocate to the Safe Routes to School Program any funds received from the federal government under any federal safe routes to school program or other new federal program that designates funds for such program.
- B. Applicants applying for funds through the Safe Routes to School program may also be eligible for other federal Hazard Elimination Program funds, but must compete for those funds using the criteria established under that program.
- C. Costs of the Project exceeding the amount of the grant shall be borne by the Applicant.
- D. Project funds that have not been encumbered within 2 years shall lapse. Remaining funds shall be reprioritized by the Advisory Committee.