

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION
SOUTH DAKOTA TRANSPORTATION COMMISSION
NOTICE OF PUBLIC HEARING

Pursuant to the authority vested in the South Dakota Transportation Commission by SDCL 1-26, the South Dakota Transportation Commission will hold a public hearing in the Century Room at City Hall, 108 Sherman Street, Deadwood, South Dakota, on **August 24, 2016, at 1:00 p.m.** (Mountain Time) to consider the proposed amendment to the following rules:

70:13:01:01 – For the local bridge improvement grant program, the definition of the term “bridge condition” is being modified to mean an engineering analysis of the structural components of a bridge pursuant to national bridge inspection guidelines, rather than “as per” national bridge inspection guidelines. This is a grammatical change to make the rule clearer.

70:13:01:02 – The compliance requirements for the local bridge improvement grant program are being modified. The revised rule states that local public agencies applying for grants must comply with procedures contained in the program rules. This change is being made to facilitate administration of the grant program.

70:13:01:03 – The application requirements for the local bridge improvement grant program are being changed. The revised rule eliminates the requirement that an authorized representative of the local public agency sign the grant application. The application requirements are being changed to require an applicant to submit a resolution from its governing body authorizing the application and any funding commitment made by the local public agency. These changes are being made to facilitate administration of the grant program and to ensure that an application and any funding commitments are authorized by the governing body of the local public agency applying for the grant.

70:13:01:04 -- The application deadlines for local bridge improvement grants are being modified. For applications for preliminary engineering work submitted after January 2, 2017, the application deadline is changed to August 1 of each year rather than January 2 of each year. The approval period is also being changed so that the Transportation Commission must consider applications by April 30 of each year, but need not complete action on applications by that date. These changes will facilitate administration of the grant program by allowing additional time for reviewing and acting on applications.

70:13:01:06 – This rule is being amended to change the criteria for bridge grant awards. The revised rule requires the Department of Transportation to propose comprehensive program procedures for approval by the Transportation Commission. The rule will require that the proposed procedures address application requirements, project qualifications, objective scoring criteria, project development and construction management. The rule is being changed to require that grant qualification criteria include the sufficiency rating and structural deficiency of the bridge that is the subject of the grant application. The revised rule identifies bridge condition, user impact, and local participation as some of the factors to be considered in the scoring criteria for a grant application, rather than the only factors. Rather than making grant recommendations based on the bridges receiving the most points under a 100 point scoring system, the rule is being changed to require the department to report its scoring calculations to the Transportation Commission. The revised rule states the department will also make recommendations regarding project feasibility, project constructability, and whether the proposed project addresses the deficiencies of the bridge.

The rule is being revised to eliminate emergency as a factor to be considered when determining bridge condition. The rule is also being changed to refer to bridge traffic and detour length as factors that may be considered when assessing user impact, rather than factors that must be considered. The rule is being amended to eliminate the requirement that plans be ready for bid-letting in order to qualify for local participation scoring points. The rule is also being changed to make clear that points for complete plans only apply to grant applications for preservation, rehabilitation and replacement projects. The rule is being changed to eliminate the department's ability to adjust scoring points based on one demographic area receiving a disproportionate share of grant funds. These changes are being made to facilitate administration of the grant program.

70:13:01:07 – This rule is being amended to refine the process for imposing conditions on grant awards. The rule is being revised to explicitly state that the Department of Transportation may recommend conditions on any local bridge improvement grant award. The rule is being amended to clarify that the Transportation Commission may impose more than one condition on any grant award. The revised rule eliminates the statement that grant conditions are to ensure substantial conformity with representations in the grant application and the award criteria set out in § 70:13:01:06. These changes are being made to facilitate administration of the grant program.

70:13:01:08 – This rule is being amended to address the content of project agreements after grants have been awarded. The rule is being changed to state that the department will enter into a project agreement with a local public agency that details not only eligible expenses, but also conditions and responsibilities for any grant award. These changes are being made to facilitate administration of the grant program.

70:13:01:09 – This rule is being revised to eliminate the statement that only the Transportation Commission has the authority to approve a local bridge improvement grant application. This change is being made to eliminate unnecessary duplication with state law, which already gives the Transportation Commission the sole power to award these grants. The rule is also being revised to allow the department to review and determine a local public agency's compliance with all legal requirements and conditions of the grant, not just requirements and conditions imposed by chapter 70:13:01 of the administrative rules. This change is being made to facilitate administration of the grant program.

70:13:01:10 – This rule is being modified to address conditions for project fund availability after a grant award. The rule is being revised to require the department to review plans and provide bid-letting authorization for preservation, rehabilitation, and replacement projects that receive a local bridge improvement grant. The rule is being changed to impose deadlines for preservation and preliminary engineering projects and to change the deadlines for rehabilitation and replacement projects. The rule will require that preservation, rehabilitation, and replacement projects must be under construction within three years from the date of the notice of a grant award. For preliminary engineering projects, the rule is being amended to require all reimbursable expenses to be incurred within two years from the date of the notice of a grant award. The rule is also being changed to allow the Department of Transportation to extend these deadlines before or after the expiration of the deadline. These changes are being made to facilitate administration of the grant program.

70:13:01:12 – This rule is being modified to clarify the procedure for determining grant default and the requirements for finding grant default. The revised rule clarifies that the

commission determines default of the grant conditions. The revised rule requires the department to notify a local public agency at least ten days prior to the commission's consideration of default and affords the local public agency the opportunity to address the commission. The revised rule defines grant default to include any material false statement or report, not just a material false statement or report made in a grant application. The rule is also being revised to define grant default to include failure of a local public agency to comply with deadlines set under §70:13:01:10. The rule is being clarified to state that grant default relates to actions of the local public agency. These changes are being made to facilitate administration of the grant program.

70:13:01:13 – This rule is being revised to require repayment of grant funds within forty-five days of the notice of default, rather than forty-five days of the receipt of the default notice. The rule is also being revised to make grammatical changes. These changes are being made to facilitate grant administration and to make the rule easier to read and understand.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Department of Transportation, 700 East Broadway Avenue, Pierre, South Dakota 57501-2586. Material sent by mail must reach the Department of Transportation by **August 23, 2016**, to be considered.

After the hearing, the commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Any individuals with disabilities who will require a reasonable accommodation in order to participate in the hearing should submit a request to the department's ADA Coordinator at 605-773-3540 or 1-800-877-1113 (Telecommunication Device for the Deaf).

A copy of the proposed rule may be obtained without charge from:

Secretary of Transportation
Becker-Hansen Building
700 East Broadway Avenue
Pierre, South Dakota 57501-2586

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