

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number 2021-12 Rule Number Interim Saf-C 9700

1. Agency Name & Address:

**Department of Safety
33 Hazen Drive
Concord, NH 03301**

2. RSA Authority: RSA 105-D:3

3. Federal Authority: n/a

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Filing Date: **12/28/2021**

6. Short Title: **Body-Worn and Dashboard Camera Grant Fund**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Cara Meeker**

Title: **Rules Coordinator**

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TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Summary explaining the effect of the rule:

The proposed rules adopt Saf-C 9700, which set forth the administrative requirements for the application and approval of grants available to local municipal law enforcement agencies and county sheriff's departments for the body-worn and dashboard camera fund established pursuant to RSA 105-D:3.

9. Listing of people, enterprises, and government agencies affected by the rule:

The groups affected by the proposed rules are local municipal law enforcement agencies and county sheriff's departments that apply for grants to fund body-worn and dashboard cameras.

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

Rule	Statute
Saf-C 9700	RSA 105-D:3

11. Summary of the effect upon the state if the rule were not adopted:

The legislature enacted RSA 105-D:3 to establish the Body-Worn and Dashboard Camera Fund for the purpose of encouraging local law enforcement to implement such technology, which will improve officer safety in New Hampshire. RSA 105-D:3, IV requires the Department and the Attorney General to jointly adopt rules establishing a process for the application for matching grants from the fund in 180 days from the July 1, 2021 effective date of the statute. If the proposed rules were not adopted, disbursement of matching grants to local law enforcement would be delayed, contrary to the will of the legislature.

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

January 21, 2021

13. The fiscal impact statement prepared by the Legislative Budget Assistant, if applicable.

FIS # 21-150, dated 12/28/2021

Fiscal Impact Statement for Department of Safety interim rules governing Body-Worn and Dashboard Camera Grant Fund. [Interim Saf-C 9700]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable as these are new interim rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs attributable to the proposed rules. Any costs or benefits are attributable to RSA 105-D:3, adopted as part of House Bill 2 in the 2021 legislative session (chapter 91:144) and not the rules.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Adopt Saf-C 9700, to read as follows:

CHAPTER Saf-C 9700 BODY-WORN AND DASHBOARD CAMERA FUND

Statutory Authority: RSA 105-D:3

PART Saf-C 9701 PURPOSE AND SCOPE

Saf-C 9701.01 Purpose. The purpose of these rules is to set forth the administrative requirements for the application and approval of grants available to local municipal law enforcement agencies and county sheriff's departments for the body-worn and dashboard camera fund established pursuant to RSA 105-D:3.

Saf-C 9701.02 Scope. This chapter shall apply to all local municipal law enforcement agencies and county sheriff's departments, with arrest powers, who apply for grants available under the body-worn and dashboard camera fund while funds are available.

PART Saf-C 9702 DEFINITIONS

Saf-C 9702.01 "Applicant" means a New Hampshire local municipal law enforcement agency and county sheriff's department, with arrest powers, that has chosen to apply for grant funding under this chapter.

Saf-C 9702.02 "Authorizing official" means an official exercising authority promulgated under RSA 31:95-b, RSA 37:6, or RSA 23:1.

Saf-C 9702.03 "Commissioner" means commissioner of the New Hampshire department of safety or his or her designee.

Saf-C 9702.04 "Dashboard camera" means a forward-facing video recording device installed on the dashboard of a law enforcement vehicle.

Saf-C 9702.05 "Department" means the New Hampshire department of safety.

Saf-C 9702.06 "State" means the State of New Hampshire.

Saf-C 9702.07 "Supplant" means to use grant funds to replace funds from non-grant sources.

PART Saf-C 9703 APPLICANT ELIGIBILITY

Saf-C 9703.01 Eligible Applicants. Eligible applicants shall include local municipal law enforcement agencies or county sheriff's department that employ sworn law enforcement officers with arrest powers.

PART Saf-C 9704 CONDITIONS FOR ELIGIBILITY OF GRANT FUNDING

Saf-C 9704.01 Grant Conditions.

(a) Grant funds awarded pursuant to the body-worn and dashboard camera fund shall support activities for encouraging local law enforcement agencies to equip officers with body-worn cameras and agency vehicles with dashboard cameras.

(b) Grantees awarded funds under this chapter shall agree to maintain a program for the body-worn cameras or dashboard cameras for a minimum of 5 years from the official award date.

Saf-C 9704.02 Allowable Costs.

Edit: Delete

(a) Grant funds shall reimburse grantees for the purchase of 50% of the cost, up to a maximum of \$50,000 per entity, for the following expenses:

Edit: "of"

(1) Purchase body-worn or dashboard cameras;

(2) Ongoing software maintenance expenses of body-worn or dashboard cameras; or

Edit: Delete extra spaces.

(3) Costs related to the maintenance and storage of data recorded by body-worn and dashboard cameras.

(b) The locally funded portion for these purchases shall be local funds and not other grant funds.

Unclear: Unclear as worded. Are only local funds allowed to be used to make these purchases or is it that only the local funds used are eligible for reimbursement?

Saf-C 9704.03 Prohibited Costs.

(a) The following shall be prohibited uses of the grant funds:

(1) Supplanting locally budgeted and approved funds for items covered by this grant;

(2) Any expenses incurred prior to or after the grant period identified in award documents;

(3) Any expenses incurred under a contract that was in place prior to the grant award or after the grant period; and

(4) Any expenses related to evidence rated analysis or redaction activities.

Saf-C 9704.04 Length of Funding. Applicants may apply for funding to coincide with the inception of the program in the state fiscal year with termination of grant eligible activities to allow for reimbursement of eligible costs prior to the end of the fiscal year on June 30.

Unclear: Unclear as worded. Is this happening every year like this?

PART Saf-C 9705 FORMAT AND SUBMISSION

Saf-C 9705.01 Application Process.

Edit: Remove extra spaces.

(a) Applicants shall complete and submit the "Body-Worn and Dashboard Camera Fund Grant Application", for consideration of a grant award.

(b) This application may be downloaded from <http://www.nh.gov/safety/divisions/homeland/index.html>.

(c) Applications shall only be submitted online to the email address provided in (d) below. Hard copies or facsimiles shall not be accepted.

Unclear/Leg. Intent: A revision date is needed to incorporate a form by reference. Please submit form for review by committee staff.

Edit: Rules are not effective after approval by JLCAR. Perhaps what is meant is “effective date”?

(d) Completed applications shall be submitted by emailing Homelandgrants@dos.nh.gov no later than 60 days after the approval of these rules. Applications received after the deadline shall be summarily rejected.

(e) After initial application and award period, if funds still remain, additional grants will be issued based on availability.

Edit: “shall”

Saf-C 9705.02 Body-Worn and Dashboard Camera Fund Initiative Application, Data Required.

(a) The following information about the authorizing official pursuant to RSA 31:95-b, RSA 37:6, or RSA 23:1, financial point of contact, and program contact shall be included with the “Body-Worn and Dashboard Camera Fund Grant Application”:

- (1) Name and title;
- (2) Address and email address; and
- (3) Telephone number;

Edit: Delete. The next paragraph requires the application be signed by the authorized official. This paragraph is repetitive.

(c) The applicant shall sign the application.

Edit: “b”

(d) The named authorized official in (a)(1) above shall complete and sign the application and certify that he or she is authorized under the statutes of the state of New Hampshire to apply for, authorize, or accept the grant funds.

Edit: “c”

(e) Applicants shall submit the following information:

Edit: Delete

Edit: Combine sentences with either “and total...” or “or total...”

(1) Total number of full-time and part-time law enforcement personnel. Total number of agency vehicles (if applying for vehicle dashboard cameras);

Edit: Insert comma

(2) The number of currently deployed body-worn and dashboard cameras that the applicant presently has;

Edit: “cameras”

(3) The number of body-worn cameras or dashboard camera requested;

(4) Quantity of:

Unclear: The quantity of body worn and dashboard cameras is unclear. (3) above asks for the number of cameras requested. (2) asks for the number of currently deployed cameras. Is (4) asking for the total number of currently deployed and requested cameras? Is it asking for the total number needed to cover all personnel and vehicles? Please clarify.

- a. Body worn cameras; and
- b. Dashboard cameras;

(5) Estimate total project costs for purchasing, implementing and maintaining items listed in (4) above, including any estimate for any maintenance or ongoing storage fees;

Edit: Insert comma

(6) Identify if purchases are new or replacements; and

(7) Amount of grant funding requested at 50% of the cost up to \$50,000.

(f) Applicants shall submit a timeline, including milestones and start dates, that provides what will be done, who will do it, and when it will be accomplished. Each milestone listed shall not exceed 25 words.

(g) The authorizing official of the applicant shall identify and provide a justification for any submitted material in the application that should not be released pursuant to a request under RSA 91-A.

(h) The authorizing official shall sign and submit the application by the date specified in the application.

(l) The authorizing official, via his or her signature, shall certify that he or she understands that:

- (1) Any funds awarded be used to supplement existing funds for program activities, and will not supplant other local or funding sources for items already locally budgeted;
- (2) This program is a reimbursement-based program;
- (3) Municipal invoices and proof of payment shall be submitted to receive grant fund reimbursement in the amount of 50% of total invoice amounts up to \$50,000; and
- (4) The applicant shall commit to maintain this body camera program for a period of 5 years after the grant reimbursement is made for to the applicant.

PART Saf-C 9706 GRANT REVIEW PROCESS

Saf-C 9706.01 Commissioner’s Determination.

(a) The commissioner shall review each application, and shall score each application, taking into account:

- (1) The number of currently deployed body-worn and dashboard cameras that the applicant presently has;
- (2) The percentage of the applicant’s officers who presently have body-worn and dashboard cameras;
- (3) The amount of the grant award as a percentage of the total project cost to implement a body-worn or dashboard camera systems; and
- (4) The type of cameras requested, weighted in favor of those applicants seeking to implement body-worn cameras.

(b) The commissioner shall publish a scoring rubric and attach it to the application.

(c) The commissioner is authorized to adjust award amounts to a lower amount than applied for when deemed appropriate based on overall impact on the greatest population, cost and budget and alignment of application with the program guidelines.

Edit: Insert comma

Saf-C 9706.02 Grant Determination.

(a) Grant applicants who have been denied funding shall be notified in writing within 30 days of the commissioner’s determination.

(b) Grant award recipients shall be notified in writing within 30 days of the commissioner’s determination with the following information:

Unclear/Leg. Intent: RSA 541-A:29 creates a process, including timing, for how an agency must respond to an application. It is unclear if these paragraphs are in compliance with RSA 541-A:29 because it is unclear how long the commissioner’s determination will take.

- (1) Amount of award;
- (2) Deadlines and actions required to accept funds;
- (3) The requirement to complete a memorandum of agreement and comply with all grant fund requirements;
- (4) Notice that recipient shall be subject to the administrative rules set forth herein;
- (5) Notice that funding shall be contingent upon approval by the Governor and Executive Council; and
- (6) The following web address, http://www.gencourt.state.nh.us/rules/state_agencies/saf-c.html, to view or print a copy of these rules.

PART Saf-C 9707 ADMINISTRATIVE REQUIREMENTS

Saf-C 9707.01 Reimbursement.

(a) Grantees shall be reimbursed for eligible expenses as provided in Saf- C 9704.

(b) Reimbursement requests shall be on department letterhead and include the following requirements:

Edit: Please fix formatting in this paragraph by removing extra spaces after (b) and aligning (1), (2), and (3) with each other.

- (1) Total amount of purchase;
- (2) Identify 50% of purchase amount being requested for reimbursement, up to \$50,000; and
- (3) Name and address that payment should be issued to.

Edit: Is "department" what is meant here? "Department" is defined as the NH department of safety.

(c) The grantee, or designee who has been authorized by the grantee to sign on his or her behalf, shall sign the completed form reimbursement request certifying that:

- (1) All reimbursement requests are accurate and represent activities and costs allowed by the grant award; and
- (2) Grant items purchased did not supplant locally budgeted and approved funds for the items purchased.

Saf-C 9707.02 Suspension or Termination of Funds. The commissioner shall suspend or terminate funding to any awardee if it is discovered that the awardee filed a false certification in any application, report, or document used in part of this program.

PART Saf-C 9709 RECORDKEEPING

Saf-C 9709.01 Recordkeeping.

Unclear: It is unclear what is actually being required

(a) All grantees shall maintain detailed time and incident records related to activities funded by the body-worn and dashboard camera fund pursuant to RSA 105-D:3 and these rules, for a period of at least 3 years.

(b) Grant and supporting documentation shall be made available for inspection and audit by a representative of the department upon request during the grantee's business hours, no later than the next business day.

PART Saf-C 9710 RELEASE OF RECORDS UNDER RSA 91-A

Saf-C 9710.01 Public Records. All grant applications and records maintained by the department shall be public records subject to RSA 91-A, *et seq.*

Edit: The appendix with the cross-reference table is missing. Please see pg. 37-38 of the *Manual* for guidance on creating a cross reference table.