Oregon Department of Aviation

Chapter 738

Division 14
THROUGH THE FENCE PILOT PROGRAM

738-014-0010
Through the Fence Pilot Program: Purpose and Policy

OAR 738-014-0010 through 738-014-0060 implement ORS 836.640 and 836.642 (Or Laws 2005, ch 820). The policy of the State of Oregon is to encourage and support the continued operation and vitality of Oregon's airports. These rules establish a pilot program at up to three rural airports to encourage development of through the fence operations designed to promote economic development by creating family wage jobs, by increasing local tax bases and by increasing financial support for rural airports.

Statutory/Other Authority: ORS 835.035, 836.642, sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & ch. 820 & OL 2005.
History:
AVIA 3-2006, f. 6-27-2006, cert. ef. 7-1-06

738-014-0020
Definitions

In addition to the terms defined in OAR 738-005-0010, for purposes of OAR 738-014-0010 through 738-014-0050, the following definitions apply:

(1) "Airport boundary" is the geographical line around the airport as indicated in the airport layout plan. The areas that may be included in the airport are described in OAR 660-013-0040(1).

(2) "Customary and usual aviation-related activity" includes activities described in ORS 836.616(2) and includes activities that a local government may authorize pursuant to ORS 836.616(3).

(3) "Facility site plan" means a plan showing the boundary of a proposed through the fence operation, and indicating infrastructure requirements, building layout and operational plans.

(4) "Pilot site" means a rural airport selected to participate in the pilot program pursuant to OAR 660-014-0030 and the Aurora State Airport.

(5) "Rural airport" means an airport described in ORS 836.610(1) that principally serves a city or standard metropolitan statistical area with a population of 75,000 or fewer.

(6) "Through the fence operation" means a customary and usual aviation-related activity that:

(a) Is conducted by a commercial or industrial user of property, not owned by the airport sponsor, within an airport boundary; and

(b) Relies, for business purposes, on the ability to taxi aircraft directly from the property employed for the commercial or industrial use to an airport runway.

Statutory/Other Authority: ORS 835.035, 836.642 & sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & ch. 820 & OL 2005
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738-014-0030
Selection of Volunteer Pilot Sites

(1) Airport sponsors interested in participating in the pilot program must make written application to ODA. ODA will establish the application form and deadline for applications.

(2) The application shall include:

(a) a letter from the governing body of the county in which each rural airport is located. The letter shall state the governing body concurs with the sponsor's request to be a pilot site and is prepared to assist in the amendment of comprehensive plans and land use regulations, if necessary, as required by ORS 836.642 and OAR 660, division 13 (Department of Land Conservation and Development rules governing airport planning);

(b) a description of how the airport sponsor intends to encourage through the fence operations at the rural airport;

(c) a complete narrative description of public-private partnerships the sponsor intends to pursue, and how the partnerships would promote:

(1) Innovative and creative technologies for increasing airport usability and safety;

(2) Innovative and creative performance of aviation services to make the services more competitive and useful for the public;

(3) Development of the pilot site as a setting for customary and usual aviation-related activities to develop and thrive; and

(4) Shared responsibility for:

(A) Establishing and meeting the fiscal needs of the pilot site;

(B) Maintaining safety of operations; and

(C) Maintaining positive community relations and compatibility with existing uses.

(D) a description, to the extent practicable, of the types of innovative airport infrastructure and operations funding that will be sought to support the pilot airport; and

(E) a statement of the sponsor's willingness to participate in the pilot program evaluation process described in OAR 738-014-0035.

(3) ODA will review all applications submitted by the deadline, and rank the applications that meet the minimum requirements of these rules according to their ability to meet the goals of this pilot program and the quality of the application. ODA will submit its list of eligible airports in ranked order to the State Aviation Board.

(4) The State Aviation Board will review the applications and may select up to two airports for inclusion in this pilot program.

(5) Aurora State Airport is included in the pilot program as provided in ORS 836.642(2)(a).

Statutory/Other Authority: ORS 835.035, 836.642 & sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & sec. 4, ch. 820 & OL 2005
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738-014-0035
Pilot Program Evaluation Process

(1) The pilot program implemented by these rules is intended to support Oregon's economic development through encouragement of through the fence operations at certain pilot airports. The ODA will prepare annual written evaluations of the program and present its evaluation to the State Aviation Board and other interested persons at the first State Aviation Board meeting after July 1, beginning July 1, 2007. Airport sponsors of pilot sites will cooperate with the evaluation and provide the information needed to complete the evaluation.

(2) The evaluation shall include, but need not be limited to, the following information:

(a) Identify and describe the new through-the-fence operations located at the pilot site and the number of jobs at each business. Describe the origin of each new business (start-up, relocated from another location in Oregon, relocated from a location outside Oregon) and the net change in employment from the previous location, if applicable. Describe other economic benefits of each through-the-fence operation, if applicable.

(b) Describe efforts by the airport sponsor to plan for and encourage airport development. Include a review of the sponsor's efforts to obtain innovative sources of financing for infrastructure and operations, as described in ORS 836.642(6).

(c) Describe efforts by the local community, including the jurisdiction responsible for land use planning for the pilot site and local economic development agencies, to plan for and encourage airport development.

(d) Analyze ODA's costs for the pilot program during the evaluation period, including both costs associated with the Aurora State Airport as a pilot site and the general costs associated with the pilot program.

(e) Evaluate ODA expenditures at pilot site airports compared to other public airports.

(f) Report on the local planning and land use issues that arose with respect to the pilot program.

(g) Evaluate the impact of the pilot program on the efficiency of airport management and operations at each pilot site.

(h) Evaluate the impact of the pilot program on security for each pilot airport.

(3) ODA may also solicit written comments from the Federal Aviation Administration (FAA) and the Transportation Security Administration (TSA) and shall include those comments in the evaluation if received. ODA shall invite public comment on the pilot program and include the public comment in the final evaluation presented to the State Aviation Board.

Statutory/Other Authority: ORS 835.035, 836.642 & sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & ch. 820 & OL 2005
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738-014-0040
Revisions to Airport Facility Plans to Accommodate New Through the Fence Operations at Pilot Sites

(1) Each pilot site sponsor shall work with the appropriate local government to amend its Airport Layout Plan as necessary to address proposed new through the fence operations. Amendments must conform to ORS 836.610(1) and OAR chapter 660, division 13 (Airport Planning).

(2) The Oregon Department of Aviation may assist the pilot site airport sponsor in the development of the Airport Layout Plan by providing aviation planning advice, and by assisting in the coordination of involvement with the appropriate local government, state and federal agencies, including the Department of Land Conservation and Development, and the Economic and Community Development Department.

(3) Upon submittal of the appropriate land use applications, the county and city (if any) within whose jurisdiction a pilot site is located shall consider amendments to comprehensive plans and land use regulations, including zoning classifications pursuant to ORS 836.600 to 836.630, if necessary, to accommodate the pilot site through the fence operations.

Statutory/Other Authority: ORS 835.035, 836.642 & sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & ch. 820 & OL 2005
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738-014-0050
Standards and Guidelines for Through the Fence Operations

The airport sponsor of a pilot site shall create a "Through the Fence Operations" operating plan for their airport, to accompany the Airport Layout Plan. The "Through the Fence Operations" operating plan shall include the following:

(1) Identify current operating costs and revenues for the pilot site airport. Describe how the through the fence operations will provide financial support to the pilot sites in compliance with FAA regulations.

(2) Require each through the fence operation to submit a facility site plan for its own property to the airport sponsor. The through the fence operation, in cooperation with the airport sponsor, then may proceed to seek any necessary land use approval from the appropriate local government. Any such approval must be made in compliance with statewide land use planning requirements. If the facility site plan is approved by the appropriate local government in compliance with applicable statewide land use planning requirements, the facility site plan shall be incorporated into the local government's airport plan and airport boundary.

(3) Require that each through the fence facility only be permitted to operate through a written contract with the airport sponsor that includes:

(a) Financial charges, including fuel flowage fees if applicable, that provide equitable and uniform treatment of all airport tenants and users at pilot sites.

(b) An approved development plan for the through the fence property.

(c) Aviation safety rules for the airport, and rules that facilitate the orderly management of the pilot sites.

(d) Identify the airport's role in Oregon's emergency response system, and the through the fence facility's role (if any) in assisting in maintaining these characteristics;

(e) Identify investments in pilot sites and the level of service provided by pilot sites, and the through the fence facility's role (if any) in assisting in maintaining these characteristics.

(f) Facilitate and foster good relations with the communities surrounding the pilot sites, including, for example, adhering to established airport noise abatement procedures, and adjusting operations as needed to cooperate with public community events which may occur at the airport from time to time.

Statutory/Other Authority: ORS 835.035, 836.642 & sec. 4, ch. 820 & OL 2005
Statutes/Other Implemented: ORS 836.640, 836.642 & ch. 820 & OL 2005
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738-014-0060
Airport-related Economic Development for the Community

(1) The pilot site airport sponsor shall coordinate with its county (and city if applicable) economic development departments to advance local economic development through qualified customary and usual aviation related activities within the airport boundaries of pilot sites. The development shall encourage well-ordered economic development within the airport boundaries of the pilot sites.

(2) Airport sponsors shall encourage, to the extent practical, the use of innovative funding and economic development programs at the airport to assist in developing financial self-sufficiency of the airport, including but not limited to the programs described in ORS 836.642(6).

(3) The Economic and Community Development Department shall assist the pilot sites to:

(a) Identify, qualify for and apply for funding from appropriate grant and loan programs; and

(b) Develop innovative short-term and long-term funding opportunities.

Statutory/Other Authority: ORS 835.035, 836.642 & Section 4, ch. 820 & OL 2005
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