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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 738
OREGON DEPARTMENT OF AVIATION

FILED

05/19/2022 2:42 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Update of grant rules and removal of closed ROAR grant program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 06/21/2022 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The Legislature changed the statutes that control Oregon Department of Aviation grant programs. Rules are being changed in response to new legislation. The rules provide clarification on project and applicant eligibility as well as application requirements and financial matching requirements. The proposed changes clarify review and approval processes, as well as program administration.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

House Bill 2434

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rule will have no effect on racial equity in Oregon. The Oregon Department of Aviation (ODAV) remains committed to affirmative action and equal opportunity, and to an active affirmative action program. ODAV aims to provide an integrated aviation system that benefits all Oregonians. The changes in the ASAP program from this rule making will be applicable to all eligible stakeholders regardless of race or other protected classes.

FISCAL AND ECONOMIC IMPACT:

The rule changes include closing the Rural Oregon Airport Relief (ROAR) grant program and applying a greater percentage of aviation fuel tax revenue to the Critical Oregon Airport Relief (COAR) program, one of the two grant programs remaining in ASAP. The COAR program will also be expanded to include grants to assist commercial air service to rural Oregon. Because the stipulations in the ROAR program made it difficult to award grant funds it is anticipated that closing this program and changing the COAR program will allow greater opportunity for grant funds to go to supporting air service in rural Oregon. Additionally, the extra fuel tax revenue being applied to the COAR fund will allow for higher funding cap in future grant cycles, which equals more money going to Oregon airports.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) OAR 738-124 and revisions apply to privately and publicly owned, public use Oregon airport owners and/or sponsors.

(2)(a), (b) and (c) None; the rule changes only impact those who affirmatively apply for ODAV grants.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

ODAV established a Rule Advisory Committee, which included private industry representatives to evaluate the rule changes.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

738-124-0010, 738-124-0015, 738-124-0020, 738-124-0025, 738-124-0030, 738-124-0035, 738-124-0040, 738-124-0050, 738-124-0060, 738-124-0070, 738-124-0080

AMEND: 738-124-0010

RULE SUMMARY: OAR 738-124-0010 is amended to update purposes of the COAR program to include assist commercial air service to rural Oregon and to clarify the term signs to signage, and to remove sections relating to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0010

Purpose ¶

(1) The State of Oregon established the Aviation System Action Program (ASAP) fund pursuant in 2015 Oregon Laws, chapter 700, section 7, as modified by 2019 Oregon Laws, chapter 485, section 1. The Department shall administer the funded programs and distribute funds for the purposes established by the Oregon legislature.¶

(2) The purposes of the COAR program are to: assist airports in Oregon with match requirements for FAA Airport Improvement Program grants; and make grants for: emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan; services critical or essential to aviation, including but, not limited to, fuel, sewer, water, navigational aids and weather equipment; aviation-related business development, including but, not limited to, hangars, parking for business aircraft and related facilities; or airport development for local economic benefit, including but not limited to signage and marketing.¶

~~(3) The purpose of the ROAR program is, or to assist commercial air service to Rural Oregon.¶~~

(4) The purpose of the SOAR program is to distribute funds to state-owned airports for: safety improvements recommended by the Board and local community airports; and infrastructure projects at public use airports.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: OL 2019 c.485 Section 1, ORS 835.025, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0015

RULE SUMMARY: OAR 738-124-015 is amended to remove section(s) relating to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0015

Definitions ¶¶

For the purposes of division 124 rules, the following terms have the following definitions, unless the context clearly indicates otherwise:¶¶

- (1) "Agreement" means a legally binding contract between the Department and Recipient that contains the terms and conditions under which the Department is providing funds from the ASAP Fund.¶¶
- (2) "Applicant" means a Person or Public Body that applies for funds from the ASAP Fund.¶¶
- (3) "ARC" means the Aviation Review Committee established by the Board in accordance with 2019 Oregon Laws, chapter 485, section 1(3) and composed of one member from each of the Area Commissions on Transportation chartered by the Oregon Transportation Commission (OTC). ¶¶
- (4) "Area Commissions on Transportation" means advisory bodies chartered by the OTC through the Policy on Formation and Operation of Area Commissions on Transportation (ACTs) approved by the OTC on June 18, 2003.¶¶
- (5) "Assisting Commercial Air Service" means increasing the volume of passenger air travel via aircraft on a fee for service basis. ¶¶
- (6) "Aviation" has the meaning given in ORS 836.005(5).¶¶
- (7) "Aviation System Action Program (ASAP) Fund" means the fund created in 2015 Oregon Laws, chapter 700, section 7(1), as modified by 2019 Oregon Laws, chapter 485, section 1(1) and distributed in accordance with 2019 Oregon Laws, chapter 485, section 1(4)¶¶
- (8) "Board" means the State Aviation Board created in ORS 835.102.¶¶
- (9) "COAR" or Critical Oregon Airport Relief program means the funding program described in 2019 Oregon Laws, chapter 485, section 1(5).¶¶
- (10) "Connect Oregon Fund" means the fund established in ORS 367.080.¶¶
- (11) "Department" means the Oregon Department of Aviation or ODA.¶¶
- (12) "Director" means the Director of the Oregon Department of Aviation.¶¶
- (13) "FAA" means the Federal Aviation Administration.¶¶
- (14) "Oregon Freight Advisory Committee" (OFAC) means the committee created in ORS 366.212.¶¶
- (15) "NPIAS" means the National Plan of Integrated Airport Systems. ¶¶
- (16) "Oregon Aviation Plan" (OAP) means the plan developed under ORS 835.015.¶¶
- (17) "Oregon Business Development Department" means the department defined in ORS 285A.070.¶¶
- (18) "Oregon Resilience Plan" means the report to the 77th Legislative Assembly prepared by the Oregon Seismic Safety Policy Advisory Commission (OSSPAC) in February 2013, titled "The Oregon Resilience Plan Reducing Risk and Improving Recovery for the Next Cascadia Earthquake and Tsunami."¶¶
- (19) "Recipient" means an Applicant who enters into Agreement with the Department to receive funds from the ASAP Fund.¶¶
- (20) "Revenue Use Policy" means, collectively, the FAA policy set out in 64 Federal Register 7696 (February 16, 1999), and amended in 79 Federal Register 66282 (November 7, 2014), and 49 USC § 47107, 47133.¶¶
- (21) ~~"ROAR" or Rural Oregon Aviation Relief program means grant funding as described in 2019 Oregon Laws, chapter 485, section 1(6).¶¶~~
- ~~(22) "Rural Oregon" means any area within the state of Oregon that was not officially designated or delineated as a Metropolitan Statistical Area by the U.S. Office of Management and Budget as of September 2018. ¶¶~~
- (23) "SOAR" or State Owned Airport Reserve program means funding described in 2019 Oregon Laws, chapter 485, section 1(7).

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, 835.040, OL 2019 c.485 Section 1, OL 2021 c.526 Section 4(5)(a)(D)

AMEND: 738-124-0020

RULE SUMMARY: OAR 738-124-020 is amended to remove section(s) related to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0020

~~COAR and ROAR~~ Project Eligibility ¶¶

(1) Project Eligibility. ¶¶

(a) A project is eligible only if it has not been completed prior to the application deadline set by the Department. ¶¶

(b) A project is not eligible if its nature is to provide a match for a project or program that is funded with other Department funds or the Connect Oregon Fund. ¶¶

(c) A project is not eligible if it is prohibited by the Revenue Use Policy. ¶¶

(2) Additional project eligibility requirement for COAR applications: A project is eligible only if it is located on an airport that is open to flight operations by the public. ¶¶

~~(3) Additional project eligibility requirement for ROAR applications: A projects is eligible if it will increase commercial passenger travel between an airport in Rural Oregon and another airport in Oregon.~~

Statutory/Other Authority: ORS 835.035, 835.040, 836.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0025

RULE SUMMARY: OAR 738-124-025 is amended to remove section(s) related to the closed ROAR grant program and create an additional COAR applicant eligibility.

CHANGES TO RULE:

738-124-0025

COAR and ROAR Applicant Eligibility ¶¶

~~(1) An Applicant is eligible if the Applicant is an Oregon public use airport, privately or publicly owned; or if the Applicant is a public use airport sponsor.¶¶~~

~~(2) An Applicant is eligible if the Applicant has a current Oregon Secretary of State business registry number, unless the Applicant is an individual doing business under the individual's real and true name, is a public sector entity, or is otherwise exempt under applicable law.¶¶~~

~~(2) Additional applicant eligibility requirement for ROAR applications: Applicants must either be airports located in Rural Oregon, or apply in partnership with an airport located outside of Rural Oregon.~~

~~Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)~~

~~Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)~~

RULE SUMMARY: OAR 738-124-030 is amended to remove section(s) related to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0030

~~COAR and ROAR~~ Application Requirements

- (1) The Department shall announce application deadlines for ~~COAR and ROAR~~ funding. The Department shall not consider applications submitted after the deadline set by the Department.¶
- (2) Applicants interested in receiving funds under ~~either COAR or RCOAR~~ must submit an application to the Department in a format prescribed by the Department. At a minimum, each application must contain the following information:¶
- (a) Project Information. The application must include:¶
- (A) Applicant's name and Oregon Secretary of State Business Registry number (if one exists), and the contact information of the individual who represents the Applicant with respect to the application; ¶
- (B) Project name;¶
- (C) Project location;¶
- (D) Airport information, specifically the:¶
- (i) Airport name,¶
- (ii) Airport category, and¶
- (iii) Whether the airport is NPIAS or Non-NPIAS;¶
- (E) Project overview, including purpose and projected start and end dates; and ¶
- (F) A statement describing local support for the project, if any.¶
- (b) Project Documentation. The application must describe documentation necessary to complete the project, specifically statements regarding whether:¶
- (A) The project is in the most current Airport Layout Plan (ALP), signed by the FAA and the airport owner;¶
- (B) A National Environmental Policy Act (NEPA) review is required;¶
- (C) An Airport Safety Overlay Zone, as described in OAR 660-013-0070, has been adopted at the airport where the project will be located; and¶
- (D) Any permits or licenses are required for the project, and if so, a description of each permit or license which identifies the issuing authority and a brief description of the reason the permit or license is required.¶
- (c) Statewide Impact. The application must include a brief statement about whether the project:¶
- (A) Reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor in Oregon;¶
- (B) Results in an economic benefit to Oregon;¶
- (C) Connects elements of Oregon's aviation system in a way that will measurably improve utilization and efficiency of the system;¶
- (D) Is ready for construction or implementation, including whether the project has any unique construction-readiness, project implementation issues, or possible delays; and¶
- (E) Has a useful life expectancy that offers maximum benefit to this state.¶
- (d) Project Budget Information. The application must include each of the following:¶
- (A) The total amount of the ~~COAR or ROAR~~ grant sought by the Applicant. Amounts sought may not exceed the maximum grant amounts specified in OAR 738-124-0040.¶
- (B) For federally funded projects, a statement of whether the project is listed on the approved Federal Capital Improvement Plan and, if so provide a copy of the Capital Improvement Plan.¶
- (C) A list of project funding sources and the amount of funding from each source. Applicants must include a statement of how much of the cost of the project can be borne by the Applicant from sources other than Department funds or Connect Oregon Fund.¶
- (D) A statement identifying whether the project will have incurred any expenditures prior to the effective date of an Agreement, if awarded, and a brief explanation if so. ¶
- (E) Documentation of the Applicant's ability to meet the financial contribution or match requirement specified in OAR 738-124-0040. ¶
- (e) Applicant history. A statement in which the Applicant discloses any circumstance in which the Applicant or one of its owners or principals has been involved in a dispute about its use of grant funds or a business loan within the last 5 years preceding the date of the application. If any such circumstances exist, the Applicant shall describe the circumstances, including the approximate date of the circumstance, the entity or individual making the grant or loan at issue, and the outcome of the dispute.¶
- (f) Applicant affirmation. Each Applicant must affirm that the statements contained in the application are complete and accurate.¶

(3) Additional requirements for ROAR applications:¶¶

(a) ROAR applications must also include: an amount of the projected increase in the volume of passenger air travel to rural Oregon and an explanation of the factors that support it; and a list of local companies, non-profit organizations or government agencies that have expressed interest in the project or a commitment to support it, accompanied by letters or other evidence of support from the entities.¶¶

(b) For projects that include marketing, the application must include a proposed marketing and communication plan.¶¶

(c) For projects that include air service, the application must also specify: projected aircraft to be used; type of FAA certificate under which operations will be conducted; and estimated projected draw down of grant funds, month by month, for the initial 24 month period.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, 835.040, OL 2019 c.485 Section 1, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0035

RULE SUMMARY: OAR 738-124-035 is amended to update the percent of Aviation System Action Program Fund that goes to the COAR program, update priorities of the COAR program to include assist commercial air service to rural Oregon and clarify the term signs to signage, and to remove sections relating to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0035

Project Selection ¶

(1) The Board will select Projects to be funded through a grant with monies in the Aviation System Action Program Fund.¶

(2) Prior to selecting Projects to be funded with monies in the Aviation System Action Program Fund, the Board shall solicit recommendations when applicable from:¶

(a) The Aviation Review Committee (ARC).¶

(b) The Freight Advisory Committee for freight Transportation Projects when applicable.¶

(c) The Oregon Business Development Department for aviation transportation projects when applicable.¶

(3) Prior to selecting Projects to be funded with monies in the Aviation System Action Program Fund, the Board may solicit recommendations from transportation stakeholder and advocate entities not otherwise specified in section (2) of this rule including the Area Commissions on Transportation, Business Oregon and Regional Solutions Teams will provide comments to the designated aviation representative of the Area Commissions on Transportation.¶

(4) On behalf of the Board, the Department shall solicit recommendations from the committees and entities in section (2) of this rule before soliciting recommendations from entities in section (3) of this rule. The Department shall provide the recommendations from the committees and entities in section (2) of this rule to the entities in section (3) of this rule.¶

(5) The Director, in consultation with Department staff, shall provide the Board a list of recommendations from the review committees and entities in section (2) and section (3) of this rule. The list shall include the evaluation results and recommendations from each of the committees and entities in sections (2) and (3) of this rule. The Board shall provide its final recommendations in a report of projects to be funded with monies in the Aviation System Action Program Fund listing in priority order eligible Projects together with a reasonable number of alternate Projects in priority order.¶

(6) The Department shall determine the organizational guidance for the committees' and entities' processes and protocols.¶

(7) The committees and entities in sections (2), (3) and (5) of this rule shall follow the organizational guidance determined by the Department under section (6) of this rule.¶

(8) The Board will consider all of the following in its determination of eligible Projects to approve for receipt of funds from the Aviation System Action Program Fund through the COAR Grant Program. The ARC committee shall recommend applications to the State Aviation Board, which shall select applications with priority in accordance with OAR 738-125-0035 (3):¶

(a) ~~Fifty~~Seventy-five percent of the Aviation System Action Program Fund amounts described in subsection OL 2021~~15~~ c.700 526 Section 7 (4)(b) shall be prioritized in the following manner and distributed for the following purposes under the COAR Grant Program:¶

(A) First priority is to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants;¶

(B) Second priority is to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment;¶

(C) Third priority is to make grants for:¶

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.¶

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.¶

(iii) Airport development for local economic benefit, including, but not limited to, signs~~age~~ and marketing.¶

(iiii) Assist commercial air service to rural Oregon¶

(b) Priority in distributing grants shall be given to projects for which applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate. Priorities will be in accordance with the corresponding OAR as they relate to COAR Grants ~~and ROAR~~.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7

Statutes/Other Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0040

RULE SUMMARY: OAR 738-124-040 is amended to remove section(s) related to the closed ROAR grant program, and correct the order of subcategories under (2)(A) to be consistent with the FAA airport categories.

CHANGES TO RULE:

738-124-0040

Maximum COAR and ROAR Grant Amounts and Applicant Financial Matching Requirements

~~(1) Maximum grant amounts for the respective programs are:~~

~~(a) COAR program: \$150,000 per project. COAR program is:~~

~~(b) ROAR program: \$1500,000 per project.~~

~~(e) Maximum amounts listed in this rule are cumulative to all applications submitted with respect to a single project.~~

~~(d) Notwithstanding the maximum grant amounts listed in this section, the Board may award a larger grant if it makes a finding that a larger grant awarded to a particular project would serve the purposes of the program. If an Applicant applies for a grant amount above the maximum amount listed in this section, the application must include a detailed statement of how the grant amount in excess of the maximum listed in this section would serve the purposes of the respective program as described in OAR 738-124-0010.~~

~~(2) COAR Financial matching requirements Version 23, 11/12/2019.~~

~~(a) Minimum financial match requirements are based on the category of airport at which the project will be performed, as listed in the current Oregon Aviation Plan. By category, the minimum financial match requirements are:~~

~~(A) Category 1~~

~~(i) Other Commercial Non-Primary (less than 10,000 enplanements): 35% of the total eligible project costs~~

~~(ii) Other Commercial Non-Primary (less than 10,000 enplanements): 35; 50% of the total eligible project costs~~

~~(B) Category 2 - Business: 25% of the total eligible project costs~~

~~(C) Category 3 - Regional: 10% of the total eligible project costs~~

~~(D) Category 4 - Community: 10% of the total eligible project costs~~

~~(E) Category 5 - Low Activity: 5% of the total eligible project costs~~

~~(b) Notwithstanding subsection (a), the minimum financial match requirement for an airport listed in Table 1 of the FAA's Essential Air Service (EAS)/Economically Distressed Area (EDA) Determination memo dated February 8, 2019 is 5% of the total eligible project costs.~~

~~(c) For applications filed for assistance with FAA Airport Improvement Program (AIP) match requirements, the grant match amount is the eligible project cost and is subject to the minimum financial match requirements described above.~~

~~(3) ROAR financial matching requirements:~~

~~(a) For applications seeking funds for capital projects, the Applicant shall contribute at least 50% of the total eligible project costs.~~

~~(b) For applications seeking funds for any other purpose, the Applicant shall contribute at least 10% of the total eligible project costs.~~

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0050

RULE SUMMARY: OAR 738-124-050 is amended to remove references to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0050

Department Review of COAR and ~~ROAR~~ Applications

(1) The Department shall review applications for completeness and to confirm that Applicants and projects are eligible to receive funds. As part of its review, the Department may ask an Applicant to supply missing information or to provide clarification about Applicant or project eligibility.¶

(2) If an Application is incomplete, or an Applicant or project is ineligible, the Department shall, within 15 business days of making such determination:¶

(a) Specify in writing or email to the Applicant the additional information the Applicant must provide to complete the application or establish eligibility; or¶

(b) Notify the Applicant in writing or email that the Applicant or Project is ineligible and briefly describe the basis for ineligibility.¶

(3) If the Applicant fails to provide requested information within 5 business days from the date of the Department's written or email communication made pursuant to subsection (2)(a) of this rule, the Department may consider the application ineligible and provide the notice described in subsection (2)(b) of this rule.¶

(4) Affected Applicants may submit written protests of ineligibility determinations to the Director. Protests must be submitted in writing to the Director within 5 business days of the date of notice of the Department's determination of incompleteness or ineligibility that is being protested.¶

(5) The Director shall prepare a written response to the protest no later than 45 business days after the date the protest is received. The Director's written decision is final.¶

(6) The Department shall provide all eligible applications from eligible Applicants, including supporting materials, to the ARC.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0060

RULE SUMMARY: OAR 738-124-0060 is amended to remove sections relating to the closed ROAR grant program, update purposes of the COAR program to include assist commercial air service to rural Oregon, and to clarify the term signs to signage.

CHANGES TO RULE:

738-124-0060

Aviation Review Committee (ARC) Review and Recommendation of COAR and ROAR Applications

- (1) The ARC shall hold public meetings as necessary to review eligible applications and to prepare approval and rejection recommendations to the Board.¶
- (2) In reviewing applications, ARC shall consider:¶
 - (a) ~~For COAR applications:~~ The extent to which, if implemented, the project proposed in the Application would:¶
 - (A) Assist airports in Oregon with match requirements for FAA Airport Improvement Program grants;¶
 - (B) Support emergency preparedness and infrastructure goals in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan; or ¶
 - (C) Support services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment; support aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities; or support airport development for local economic benefit, including, but not limited to, signage and marketing.¶
 - (b) ~~For ROAR applications: the extent to which the project proposed in the Application would, if implemented, assist commercial air service to Rural Oregon.¶~~
 - (c) Whether the project proposed in the application:¶
 - (A) Reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor in Oregon;¶
 - (B) Results in an economic benefit to Oregon;¶
 - (C) Connects elements of Oregon's aviation system in a way that will measurably improve utilization and efficiency of the system;¶
 - (D) Is ready for construction or implementation, including whether the project has any unique construction-readiness, project implementation challenges, or possible delays; and¶
 - (E) Has a useful life expectancy that offers maximum benefit to Oregon.¶
 - (d) How much of the costs of the project proposed in the application can be borne by the Applicant from sources other than the Department or the Connect Oregon Fund. ¶
- (3) For each applicable criterion, the ARC will rate whether the proposed project "Meets," "Somewhat Meets" or "Does not Meet" the criterion. For purposes of this process, those terms have the following meanings:¶
 - (a) "Meets" means that the Applicant explained in a thorough and specific manner how the project meets the criterion and provided thorough evidence, including specific facts, specific examples, reliable figures, or detailed citations to supporting attachments to the application to support the Applicant's explanation.¶
 - (b) "Somewhat Meets" means that the Applicant provided a general, superficial or non-specific explanation how the project meets the criterion or provided only limited or incomplete supporting evidence to support the Applicant's explanation. ¶
 - (c) "Does Not Meet" means that either:¶
 - (A) The Applicant reported that the project did not meet the criterion; or ¶
 - (B) The Applicant provided an incomplete or implausible explanation of how the project meets the criterion or provided no evidence or only minimal, implausible or unreliable evidence to support the Applicant's explanation.¶
- (4) Prioritizing COAR applications: In prioritizing applications submitted for COAR funds, the ARC may consider the following factors:¶
 - (a) Applicant that is able to bear the most cost. ¶
 - (b) Projects related to safety or infrastructure.¶
 - (c) Quantity of projects applied for at an airport, within the same grant cycle.¶
 - (d) Regional significance.¶
- (5) Based on its review of eligible applications, the ARC shall:¶
 - (a) Prepare a brief written statement to the Board with respect to each application which recommends approval or rejection by the Board.¶
 - (b) For COAR applications for which the ARC recommends Board approval, the ARC shall prepare a prioritized list of applications, ranking them in the following priority:¶
 - (A) First, to assist airports in Oregon with match requirements for FAA Airport Improvement Program grants.¶
 - (B) Second, to make grants for emergency preparedness and infrastructure projects, in accordance with the

Oregon Resilience Plan or the Oregon Aviation Plan.¶¶

(C) Third, to make grants for:¶¶

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water, navigational aids and weather equipment; or¶¶

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities; or¶¶

(iii) Airport development for local economic benefit, including, but not limited to, signage and marketing; or¶¶

(iiii) To assist commercial air service to rural Oregon¶¶

(6) The Department shall provide the ARC's written responses and prioritized list to the Board as soon as practicable after the ARC's review.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0070

RULE SUMMARY: OAR 738-124-0070 is amended to update purposes of the COAR program to include assist commercial air service to rural Oregon and to clarify the term signs to signage, and to remove sections relating to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0070

Board Approval or Rejection of COAR and ROAR Applications

- (1) Prior to approving COAR and ~~ROAR~~ applications, the Board shall review and consider the ARC's written recommendations and prioritized list of COAR applications recommended for approval.¶
 - (2) As part of its consideration of applications, the Board may solicit written feedback from stakeholders or entities with expertise relevant to a project proposed in a particular application, such as the Freight Advisory Committee, the Oregon Business Development Department, or Area Commissions on Transportation. ¶
 - (3) The Board may delegate solicitation and collection of written feedback to the Department and may instruct the Department to solicit or collect feedback at any point in the application cycle. ¶
 - (4) The Board may require any Applicant to make a presentation to the Board or interview with a Board designee as part of its consideration process.¶
 - (5) The Board may approve an application for the amount sought or for a smaller amount.¶
 - (6) When selecting COAR applications for approval, the Board shall prioritize them as described below:¶
 - (a) First, to assist airports in Oregon with match requirements for FAA Airport Improvement Program grants.¶
 - (b) Second, to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan.¶
 - (c) Third, to make grants for:¶
 - (A) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment; or¶
 - (B) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities; or¶
 - (C) Airport development for local economic benefit, including, but not limited to, signage and marketing; or¶
 - (D) To assist commercial service to rural Oregon
- Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)
Statutes/Other Implemented: ORS 835.025, OL 2019 c.485 Section 1, 835.040, OL 2021 c.526 Section 4(5)(a)(D) and (b)

AMEND: 738-124-0080

RULE SUMMARY: OAR 738-124-080 is amended to remove section(s) related to the closed ROAR grant program.

CHANGES TO RULE:

738-124-0080

~~COAR and ROAR~~ Program Administration

(1) The Department shall administer all ~~COAR and ROAR~~ grants.¶

(2) The Department and Recipient shall execute a written Agreement in a form acceptable to the Department prior to the disbursement of funds for an application approved by the Board. ¶

(3) At a minimum, the Agreement must contain provisions as listed below.¶

(a) A provision which requires a Recipient to submit documentation of the projected costs for the project must be submitted to the Department prior to the disbursement of funds.¶

(b) A provision which requires that disbursement of funds be made on a reimbursement basis. ¶

(c) A provision which requires a Recipient to separately account for all monies received from the ASAP Fund in project accounts in accordance with Generally Accepted Accounting Principles.¶

(d) A provision which authorizes the Department to withhold a percentage of funds for which reimbursement is sought by a Recipient and authorizes the Department to release the funds to Recipient when the conditions established by the Department are met or upon final project acceptance by the Department. The Department shall determine retainage limits in accordance with ORS 835.112. ¶

(e) A provision which requires a Recipient to remain current on all applicable state and local taxes, fees and assessments for the useful life of the project as prescribed in the Agreement. ¶

(f) A provision or provisions which protect public funds by identifying circumstances under which the Department may require repayment of disbursed funds or terminate the Agreement and which identify the rights and remedies of the Department upon termination.¶

(g) A provision which requires changes to the project's cost, scope, objectives or timeframe be effective only upon written amendment to the Agreement.¶

(h) Provisions which require the Recipient to provide the Department with information, records, materials, progress reports or other information that may be requested by the Department.¶

(i) A provision which authorizes the Department to conduct reasonable inspections of projects funded under the Agreement. ¶

(4) The Department shall comply with applicable review requirements set out in statute, rule or Department policy prior to executing Agreements.

Statutory/Other Authority: ORS 835.035, 835.040, 835.112, OL 2019 c.485 Section 1(2)(b)

Statutes/Other Implemented: ORS 835.040, ORS 835.025, OL 2019 c.485 Section 1, OL 2021 c.526 Section 4(5)(a)(D) and (b)