



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 738

OREGON DEPARTMENT OF AVIATION

FILED

08/21/2025 4:32 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amend division 124 for updated ASAP program procedures and administration.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/22/2025 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.

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Filed By:
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Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 09/17/2025

TIME: 10:00 AM - 10:30 AM

OFFICER: Andria Abrahamson

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-302-3645

CONFERENCE ID: 2523283801515

SPECIAL INSTRUCTIONS:

Passcode: WC6SN62o

NEED FOR THE RULE(S)

The proposed changes clarify the State Aviation Board's ability to redistribute grant funding or re-prioritize grant applications, as well as update terms and grant and project administration processes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

ORS 319.023 - Oregon Legislative Website

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 amendments to OAR 738-124 are for administrative and clarification purposes, and not anticipated to cause a significant fiscal or economic impact.

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).

OAR 738-124 and revisions apply to privately and publicly owned, public use Oregon airport owners and/or sponsors. The rule changes only impact those who affirmatively apply for ODAV grants. No increased costs are estimated to comply with the rule updates.

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

None

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

738-124-0015, 738-124-0035, 738-124-0040, 738-124-0080, 738-124-0090

AMEND: 738-124-0015

RULE SUMMARY: Provides definitions for terms for the purpose of division 124 rules.

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, as that term is defined in ORS 174.100, public body, as that term is defined in ORS 174.109, or a local government or local service district as those terms are defined in ORS 174.116 that applies for funds from the ASAP Fund. ¶¶
- (3) "ARC" means the Aviation Review Committee established by the Board in accordance with ORS 319.023(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 the regional advisory commissions established by OTC to advise on state and regional policies, funding, and investments affecting the transportation system. ¶¶
- (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, collectively, the aviation fuel taxes available for distribution under ~~created in~~ ORS 319.023(1). ¶¶
- (8) "Board" means the State Aviation Board created in ORS 835.102. ¶¶
- (9) "Connect Oregon Fund" means the fund established in ORS 367.080. ¶¶
- (10) "Department" means the Oregon Department of Aviation or ODAV. ¶¶
- (11) "Director" means the Director of the Oregon Department of Aviation. ¶¶
- (12) "FAA" means the Federal Aviation Administration. ¶¶
- (13) "NPIAS" means the National Plan of Integrated Airport Systems. ¶¶
- (14) "Oregon Aviation Plan" (OAP) means the plan developed under ORS 835.015. ¶¶
- (15) "Oregon Business Development Department" means the department established in ORS 285A.070. ¶¶

(16) "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." ¶¶

(17) "Recipient" means an Applicant who enters into an Agreement with the Department to receive funds from the ASAP Fund. ¶

(18) "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. ¶

(19) "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.

Statutory/Other Authority: ORS 835.035, ORS 835.040, ORS 835.112, ORS 319.023

Statutes/Other Implemented: ORS 835.025, ORS 835.035, ORS 319.023

AMEND: 738-124-0035

RULE SUMMARY: Describes review of grant applications and project selection by State Aviation Board.

CHANGES TO RULE:

738-124-0035

Board Review and Project Selection ¶¶

- (1) The Board will make the final determination to approve an application for a COAR grant. ¶¶
- (2) The Board's review and final decision will be made based upon the following: ¶¶
 - (a) Priorities established by the Board pursuant to this rule. ¶¶
 - (b) Recommendations made by ARC following its review pursuant to OAR 738-124-0060. ¶¶
 - (c) Recommendations made by any other stakeholder and advocate entities other than the ARC. ¶¶
 - (d) Interested persons and groups other than the ARC, including the Area Commissions on Transportation. ¶¶
- (3) ~~The Director, in consultation with Department staff,~~ shall provide the Board a list of recommendations from ARC which shall include the evaluation results. For all other interested persons, the Board or the Department on its behalf may solicit and receive recommendations. ¶¶
- (4) The Board may require any Applicant to make a presentation to the Board or interview with a Board designee as part of the application process. ¶¶
- (5) ~~The Board may approve an application for the amount sought or for a smaller amount.~~ reserves the discretion to allocate available grant funds in a manner that maximizes impact and accessibility. The Board may award grants at reduced funding levels based on considerations such as reasonable distribution of available grant funds, the potential for economic and community impact, and the overall objectives of the grant program. ¶¶
- (6) When selecting COAR applications for approval, the Board shall ~~first~~ prioritize them as described below: ¶¶
 - ~~(a) First, to assist airports in Oregon with applications in the following order: ¶¶~~
 - ~~(a) To assist with FAA grant match requirements for FAA grants. ¶¶~~
 - ~~(b) Second, to make grants fairports in Oregon ¶¶~~
 - (b) For emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan or the Oregon Aviation Plan. ¶¶
 - ~~(c) Third, to make grants f~~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) Assisting commercial service to rural Oregon. ¶¶
 - ~~(d) Notwithstanding these priorities based on use, priority in distributing grants may be given to projects for which~~ After prioritizing the COAR grant applications in accordance with subsection (6)(a) through (d)(A)-(D), the Board may reprioritize one or more applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate. tions based on a consideration of all or any of the following factors, the weight of each factor being within the Board's discretion: ¶¶
 - (A) Factors used by the Aviation Review COMmittee (ARC) found in ORS 319.023(3)(b)(A-B) to score COAR grant applications ¶¶
 - (B) Additional prioritization factors used by the ARC found in OAR 738-124-0060(5) ¶¶
- (7) The Board shall provide its final ~~recommend~~ determinations in a report of projects to be funded with ASAP funds listing in priority order eligible Projects, together with a reasonable number of alternate Projects in priority order.

Statutory/Other Authority: ORS 835.035, ORS 835.040, ORS 835.112, ORS 319.023

Statutes/Other Implemented: ORS 835.025, ORS 835.035, ORS 319.023

AMEND: 738-124-0040

RULE SUMMARY: Describes the maximum award and required minimum match for COAR grants.

CHANGES TO RULE:

738-124-0040

Maximum COAR Grant Award and Recipient Financial Matching Requirements

~~(1) Maximum COAR Grant Award ¶¶~~

~~(a) Subject to subsection (b), the aggregate maximum grant award that a Recipient may receive under the COAR program is \$150,000 per project, regardless of the number of applications filed for the project. ¶~~

~~(b) Notwithstanding subsection (a), the Board may award a larger grant if it finds that a larger award for a particular project would serve the purposes of the program. If an Applicant applies for a grant amount exceeding the maximum amount in subsection (a), the Department may request additional documentation detailing how the grant amount in excess of the maximum would serve one or more of the program purposes listed in OAR 738-124-0010(2). ¶~~

~~(2) COAR Financial matching requirements. ¶~~

~~(a) Minimum financial match requirements are based on the category of airport at which the project will be implemented, as listed in the current Oregon Aviation Plan Department policy ODAV-033.. By category, the minimum financial match requirements are: ¶~~

~~(A) Category 1 ¶~~

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

~~(ii) Other Commercial Non-Primary: 50 (less than 10,000 enplanements): 35% 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 or other state or federal grant match requirements, the eligible project cost equals (i) the FAA grant match amount less (ii) any non-FAA, non-Applicant project funding sources, for example, Connect Oregon funds. The resulting eligible project cost is subject to the minimum financial match requirements described above.~~

Statutory/Other Authority: ORS 835.035, ORS 835.040, ORS 835.112, ORS 319.023

Statutes/Other Implemented: ORS 835.025, ORS 835.040, ORS 319.023

AMEND: 738-124-0080

RULE SUMMARY: Describes administration of COAR grants.

CHANGES TO RULE:

738-124-0080

COAR Program Administration

(1) The Department shall administer all COAR 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) The Agreement may contain, without limitation, the following provisions: ¶

(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 upon review and approval of auditable documentation ¶

(c) A provision requiring the 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 that states only project costs incurred on or after the effective date of the Agreement are eligible for grant funds, with the exception of Priority 1 FAA grant match projects for which all other applicable FAA grant requirements have been met. ¶

(e) 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. ¶

(f) 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. ¶

(g) 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. ¶

(h) ~~A~~ Provision which state conditions that may necessitate an amendment to the Agreement and requires changes to the project's cost, scope, objectives, or timeframe be effective only upon written amendment to the Agreement. ¶

(i) A provision that states the maximum period of performance ¶

(j) A provision that states the closeout period and circumstances under which the Department may close out the grant. ¶

(k) 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. ¶

(j) 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, ORS 835.040, ORS 835.112, ORS 319.023

Statutes/Other Implemented: ORS 835.025, ORS 835.035, ORS 319.023

AMEND: 738-124-0090

RULE SUMMARY: Describes SOAR request process and approval.

CHANGES TO RULE:

738-124-0090

SOAR Program

(1) ~~Application process~~ SOAR Project List. The Department shall prepare, as approved by the Director, a list of proposed projects that serve at least one of the purposes described in OAR 738-124-0010 ("SOAR project list"). The Department shall ~~forward the SOAR project list to the ARC for review and recommendation.~~¶

(2) ~~Review by the ARC. Applying the criteria in OAR 738-124-0060(2)(b), the ARC shall recommend to the Board the approval or rejection of each project on~~ provide the Board the SOAR project list.¶

(3) ~~Approval by Board~~. The Board shall approve or reject projects listed in the SOAR project list at a public meeting. The Board may increase or decrease dollar amounts allocated to projects it approves from the SOAR project list.

Statutory/Other Authority: ORS 835.040, ORS 835.035, ORS 835.112, ORS 319.023

Statutes/Other Implemented: ORS 835.040, ORS 835.025, ORS 319.023