

Text to be added in **bold and underlined**

Text to be deleted in [*italics*]

Oregon Department of Aviation
Chapter 738, Division 125
FINANCIAL AID TO MUNICIPALITIES (FAM) GRANT PROGRAM

738-125-0010

Purpose

The purpose of this rule is to establish fair, reasonable and nondiscriminatory processes and criteria to govern the Department's Financial Aid to Municipalities (FAM) Grant Program. The FAM Grant Program fosters a statewide system of airports through discretionary award of financial assistance for airport planning, development and capital improvement projects. **Monies eligible for distribution under the FAM Grant Program include revenue derived from ORS 319.020.**

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0015

General Provisions

The FAM Grant Program is a discretionary grant program of the Department. Program funding depends upon:

(1) The dedicated FAM Grant Program line item amount(s) in the Department's biennial budget, as approved by the Oregon Legislature; and

(2) Department policies and priorities, as described in these rules.

(3) The FAM Grant Program is available to the following categories:

(a) Emergency Preparedness Funding Grants

(b) Economic Development Opportunity Funding Grants

(c) Grant matching – FAA Airport Improvement Program Funding Match

(4) The maximum amount of money available from a FAM Grants is \$150,000 per application of, and a minimum of \$25,000 per application.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0020

Applicant Eligibility

[(1) Only Oregon municipalities, as defined by ORS 836.005, may apply for FAM Grant Program assistance. In these rules a municipality is called "applicant" or "airport sponsor".]

(1) Public Use Airport Owners and Airport Sponsors, both private and public, including Oregon municipalities, as defined by ORS 836.005, may apply for FAM Grant Program assistance. In these rules a municipality is called "applicant" or "airport sponsor."

(2) To qualify to apply for a FAM grant, an applicant must:

(a) Own or operate a public-use airport included in the current Oregon Aviation Plan (OAP), or be building or purchasing a public-use airport;

(b) Unless the application is for developing airport zoning, have enacted, or begun the process of enacting, airport zoning for the airport in accordance with OAR 660-013; and

[(c) Unless the application is for developing an Airport Layout Plan (ALP), have a current ALP for the airport, consistent with Federal Aviation Administration (FAA) requirements, that meets these criteria:]

(c) Unless the application is for developing an Airport Layout Plan (ALP), a non-NPIAS (National Plan of Integrated Airport System), the applicant must have a current ALP for the airport, consistent with Federal Aviation Administration (FAA) requirements, that meets these criteria:

(A) The ALP was completed within the last 10 years;

(B) The ALP has been accepted by the FAA or the Department; and

(C) The ALP has been adopted or is pending adoption by the municipality's governing body. Adoption shall be by ordinance or by inclusion in the municipality's comprehensive plan. More specifically:

(i) Adoption may occur after notification that the municipality has received a tentative award of FAM grant funds; however,

(ii) Adoption must occur before detailed project planning and engineering; and

(iii) Adoption must occur prior to disbursement of FAM grant funding to the municipality.

[(3) Applicant must warrant that any grant award will be spent or obligated within the fiscal year for which the grant is made.]

(3) Applicant must warrant that any grant award will be spent or obligated within the fiscal year for which the grant is made, or have an approved schedule showing completion of the project within 2 years.

(4) Applicant must warrant availability of required dollar match for any potential grant, as described in OAR 738-125-0030.

(5) Any municipality that is past due on any outstanding financial obligation to ODA cannot receive a FAM grant.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

This rule is rewritten in its entirety. Current text appears following proposed text for the reader's convenience.

738-125-0025

FAM Grant Application Criteria

(1) To be eligible for FAM grant funds, the applicant's project must meet at least one of the following criteria:

(a) Prevent future deficiencies and preserve existing facilities;

(b) Eliminate existing deficiencies as described in the current OAP;

(c) Modernize the airport by exceeding state or federal minimum standards as stated in the current OAP and identified by FAA Advisory Circulars (AC's) or other regulations;

(d) Leverage available state and federal funds for airport planning and capital improvements; or

(e) Contribute to the airport's financial self-sufficiency.

(2) Capital construction projects at airports included in the National Plan of Integrated Airport Systems (NPIAS) must meet current FAA design criteria and grant assurances;

(3) Applicant shall include a project narrative which:

(a) Describes benefits of proposed improvements;

(b) Describes and confirms existence of local airport zoning;

(c) Provides details of future maintenance commitments;

(d) Describes potential for on-airport expansion; and

(e) Shows availability of adequate surface access to the airport.

(4) The applicant shall address the potential environmental impacts of the project by providing:

(a) A written "Negative Environmental Declaration" or a FAA Environmental Checklist to confirm there will be no significant environmental impact (for NPIAS airports)..

(b) If an FAA Environmental Checklist is not required for the project, applicant shall certify it will satisfy all federal National Environmental Protection Act (NEPA) requirements as required or provide documentation showing there are no state or federal environmental requirements.

(c) If an Environmental Impact Statement (EIS) is required by the FAA, it shall satisfy the requirements of sections (4)(a) and (b).

(d) If an EIS is required to complete a project, it shall conform to the NEPA requirements.

(e) Airport planning projects are exempt from the requirements of this section, (Section 738-125-0025(4)).

(5) If the application requests funding to develop an ALP or to establish airport zoning, the applicant need not meet the requirements of (1) through (4), but must comply with all other application requirements of these rules.

(6) An application must include a formal certification asserting that all rules and regulations of federal, state and local regulatory agencies pertaining to the airport and the proposed project are known and will be complied with, including particularly those of the following agencies:

(a) Oregon Department of Aviation;

(b) Oregon Department of Land Conservation and Development;

(c) Oregon Department of Environmental Quality;

(d) Oregon Department of Fish & Wildlife;

(e) Local planning commissions;

(f) Army Corps of Engineers;

(g) Federal Aviation Administration; and

(h) Any other state, local or federal agencies having jurisdiction over the use or environmental regulation of land potentially affected by the application.

[(1) To be eligible for FAM grant funds, the applicant's project must meet at least one of the following criteria:

(a) Prevent future deficiencies and preserve existing facilities;

(b) Eliminate existing deficiencies as described in the current OAP;

(c) Modernize the airport by exceeding state or federal minimum standards as stated in the current OAP and identified by FAA Advisory Circulars (AC's) or other regulations;

(d) Leverage available state and federal funds for airport planning and capital improvements; or

(e) Contribute to the airport's financial self-sufficiency.

(2) Capital construction projects at airports included in the National Plan of Integrated Airport Systems (NPIAS) must meet current FAA design criteria;

(3) Applicant shall include a project narrative which:

(a) Describes benefits of proposed improvements;

(b) Describes and confirms existence of local airport zoning;

(c) Provides details of future maintenance commitments;

(d) Describes potential for on-airport expansion; and

(e) Shows availability of adequate surface access to the airport.

(4) The applicant shall address the potential environmental impacts of the project by providing:

(a) A written "Negative Environmental Declaration" or a FAA Environmental Checklist to confirm there will be no significant environmental impact.

(b) If an FAA Environmental Checklist is not required for the project, applicant shall certify it will satisfy all federal National Environmental Protection Act (NEPA) requirements.

(c) If an Environmental Impact Statement (EIS) is required by the FAA, it shall satisfy the requirements of sections (4)(a) and (b).

- (d) *If an EIS is required to complete a project, it shall conform to the NEPA requirements.*
- (e) *Airport planning projects are exempt from the requirements of this section, (Section 738-125-0025(4)).*
- (5) *If the application requests funding to develop an ALP or to establish airport zoning, the applicant need not meet the requirements of (1) through (4) of this rule, but must comply with all other application requirements of these rules.*
- (6) *An application must include a formal certification asserting that all rules and regulations of federal, state and local regulatory agencies pertaining to the airport and the proposed project are known and will be complied with, including particularly those of the following agencies:*
- (a) *Oregon Department of Aviation;*
- (b) *Oregon Department of Land Conservation and Development;*
- (c) *Oregon Department of Environmental Quality;*
- (d) *Corps of Engineers;*
- (e) *Oregon Department of Fish & Wildlife;*
- (f) *Local planning commissions;*
- (g) *Federal Aviation Administration; and*
- (h) *Any other state, local or federal agencies having jurisdiction over the use or environmental regulation of land potentially affected by the application.*

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0030

Matching Requirements

- (1) All applicants must show the ability to provide a dollar match if awarded a FAM grant. This match can be either in cash or in-kind services.
- (2) FAM grants may be made to the applicant [*up to a maximum per fiscal year per airport*] **for a minimum of \$25,000 and up to a maximum of \$150,000 per application per airport, per grant cycle.**
- (3) FAM grant funds may be used as:
- (a) Local match for a federally funded Airport Improvement Program (AIP) grant or planning grant to develop or update an airport ALP or Master Plan;
- (b) Local match for a project eligible under the AIP but not funded by that program; and
- (c) Local match for other federal grants.
- (4) FAM grant match requirements are based on the airport's category as listed in the current OAP. This match will be:
- (a) Category 1a -- Commercial Primary: 50%

(b) Category 1b -- Other Commercial Non-Primary (less than 10,000 enplanements): 35%

(c) Category 2 -- Business: 25%

(d) Category 3 -- Regional: 10%

(e) Category 4 -- Community: 10%

(f) Category 5 -- Low Activity: 5%

(5) Labor costs and equipment rental related to the project may be submitted as in-kind contributions; however, a list of all proposed hourly labor costs or equipment rental fees must be submitted with the grant application. If proposed rates and fees are not approved by the Department, the applicant may substitute cash. Labor hourly rates may not include overhead.

(6) The following are not eligible as in-kind resources:

(a) Land values for previously acquired land;

(b) Value of buildings or other improvements; and

(c) Non-capital expenditures or expenditures that may be properly designated as "operations and maintenance," including but not limited to:

(A) Wages or salaries;

(B) Utilities;

(C) Service vehicles;

(D) Professional services, except for engineering services for the proposed capital improvements under the program;

(E) Supplies;

(F) Value of construction equipment; or

(G) Upkeep and landscaping.

(7) FAM grant funds will not be used as a match for any other Department funded program, such as the Pavement Maintenance Program **or ODOT ConnectOregon.**

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0035

Project Eligibility, Prioritization, and Legislative Reporting

(1) Department will review all grant applications received by the grant deadline date established by Department to ensure that both the municipality and the proposed project meet all program requirements.

[(2) First priority will be given to those projects which address airport minimum standard deficiencies listed in the current OAP. These will be further prioritized according to the extent to which they:

(a) Ensure geographic coverage;

- (b) Leverage federal funds;*
- (c) Consider the costs and benefits of improvements;*
- (d) Demonstrate local support by:*
 - (A) Existence of airport zoning;*
 - (B) Availability of local match;*
 - (C) Maintenance commitment;*
- (e) Show the potential for expansion, both on and off airport, as defined by applicant's current ALP;*
- (f) Support economic development;*
- (g) Provide adequate surface access to airport;*
- (h) Environmentally impact the airport; and*
- (i) Enhance any emergency role of the airport.*
- (3) Second priority will be given to projects which do not address airport minimum standard deficiencies. These will also be further prioritized according to the extent to which they meet the criteria listed in (2)(a) - (i) above.*
- (4) Consistent with sections (2) and (3) above, the following are examples of projects eligible for FAM grants:*
 - (a) Developing an airport business plan;*
 - (b) Developing or updating an ALP;*
 - (c) Developing or updating a Master Plan;*
 - (d) Developing or updating a Land Use Plan;*
 - (e) Acquiring land to develop or improve aircraft landing facilities, including protecting against encroachment or environmental problems and acquiring "runway protection zones". (A FAM grant for land acquisition shall be limited to the appraised value, unless a different value is judicially established following condemnation proceedings.);*
 - (f) Acquiring easements or other interests in airspace, as may be reasonably required to safeguard aircraft operations in the vicinity of an aircraft landing facility as published in Federal Aviation Regulations (FAR) Part 77;*
 - (g) Grading and drainage needed to construct or reconstruct runways, taxiways or aprons;*
 - (h) Constructing or reconstructing runways, taxiways or aircraft parking aprons;*
 - (i) Removing obstructions from runway protection zones or other safety areas affecting the airport;*
 - (j) Installing or replacing "segmented circle airport marker systems" and "lighted wind cones" as defined in current FAA directives;*
 - (k) Installing or replacing runway, taxiway, boundary, obstruction, beacon or apron security lights, together with directly related electrical equipment;*

- (l) Installing or replacing security or game deterrent fencing;*
 - (m) Marking runways, taxiways and aprons for safety purposes;*
 - (n) Air navigational facilities;*
 - (o) Constructing terminal or maintenance buildings or hangars;*
 - (p) Constructing air cargo facilities at airports;*
 - (q) Seal-coating runways, taxiways and aprons;*
 - (r) Constructing or purchasing aviation-related, income-producing facilities that will be owned by the municipality, including but not necessarily limited to cardlock or retail self-service aviation fuel facilities;*
 - (s) Purchasing aircraft rescue and firefighting equipment;*
 - (t) Purchasing snow removal equipment, tractors or mowers subject to subsection (8) below; and*
 - (u) Improving infrastructure for aviation related development.*
- (5) Minimum dimensional standards for non-AIP projects at general aviation airports shall conform to those included in OAR 738-020-0020, as depicted for general aviation community airports.*
- (6) All airport projects shall be designed consistent with projected needs as shown on the airport's current ALP.*
- (7) Projects for improvements to facilities under exclusive lease or monopoly control of private persons or entities are not eligible.*
- (8) In the case of projects listed in (4)(t), the applicant shall identify in the FAM grant application the percentage of anticipated on-airport and off-airport use of the equipment. The funding participation for the equipment shall not exceed the percentage estimated for on-airport use, not to exceed \$25,000.]*

(2) Applications associated with revenues derived from fuel taxes as per ORS 319.020 will be forwarded to selection review committee for review and ranking prior to submittal to the Oregon Aviation Board for final review and selection; the criteria specified in ORS 367.084 (3) apply to the review process of the review committee:

(a) Whether a proposed project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;

(b) Whether a proposed project results in an economic benefit to this state.

(c) Whether a proposed project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system;

(d) How much of the cost of a proposed project can be borne by the applicant for the grant or loan from any source other than the Multimodal Transportation Fund.

(e) Whether a proposed project is ready for construction.

(f) Whether a proposed project has a useful life expectancy that offers maximum benefit to the state.

(3) The review committee shall recommend applications to the State Aviation Board, which shall select applications with the following priority:

(a) First, to applications to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants;

(b) Second, to applications filed with respect to safety and infrastructure development;

(c) Third, to applications filed with respect to aviation-related economic benefits related to airports.

(4) Applications for FAM Grant distributions may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates.

(5) FAM grants will be distributed for the following purposes:

(a) To assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(b) 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) To make grants for services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

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

(e) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(6) After all items in sections (2) through (5) have been met or adequately addressed:

(a) First priority will be given to those projects which address airport minimum standard deficiencies listed in the current OAP. These will be further prioritized according to the extent to which they:

(A) Ensure geographic coverage;

(B) Leverage federal funds;

(C) Consider the costs and benefits of improvements;

(D) Demonstrate local support by:

(i) Existence of airport zoning;

(ii) Availability of local match;

(iii) Maintenance commitment;

(E) Show the potential for expansion, both on and off airport, as defined by applicant's current ALP;

(F) Support economic development;

(G) Provide adequate surface access to airport;

(H) Environmentally impact the airport; and

(I) Enhance any emergency role of the airport.

(b) Second priority will be given to projects which do not address airport minimum standard deficiencies. These will also be further prioritized according to the extent to which they meet the criteria listed in (6)(a)(A)–(I) above.

(c) Consistent with sections (6)(a) and (6)(b) above, the following are examples of projects eligible for FAM grants:

(A) Developing an airport business plan;

(B) Developing or updating an ALP;

(C) Developing or updating a Master Plan;

(D) Developing or updating a Land Use Plan;

(E) Acquiring land to develop or improve aircraft landing facilities, including protecting against encroachment or environmental problems and acquiring "runway safety zones" and "runway protection zones". (A FAM grant for land acquisition shall be limited to the appraised value, unless a different value is judicially established following condemnation proceedings.);

(F) Acquiring easements or other interests in airspace, as may be reasonably required to safeguard aircraft operations in the vicinity of an aircraft landing facility as published in Federal Aviation Regulations (FAR) Part 77;

(G) Grading and drainage needed to construct or reconstruct runways, taxiways or aprons;

(H) Constructing or reconstructing runways, taxiways or aircraft parking aprons;

(I) Removing obstructions from runway protection zones or other safety areas affecting the airport;

(J) Installing or replacing "segmented circle airport marker systems" and "lighted wind cones" as defined in current FAA directives;

(K) Installing or replacing runway, taxiway, boundary, obstruction, beacon or apron security lights, together with directly related electrical equipment;

(L) Installing or replacing security or game deterrent fencing;

(M) Marking runways, taxiways and aprons for safety purposes;

(N) Air navigational facilities;

(O) Constructing terminal or maintenance buildings or hangars;

(P) Constructing air cargo facilities at airports;

(Q) Seal-coating runways, taxiways and aprons;

(R) Constructing or purchasing aviation-related, income-producing facilities that will be owned by the municipality, including but not necessarily limited to cardlock or retail aviation fuel facilities;

(S) Purchasing aircraft rescue and firefighting equipment;

(T) Purchasing snow removal equipment, tractors or mowers subject to subsection (g) below; and

(U) Improving infrastructure for aviation related development.

(d) Minimum dimensional standards for non-AIP projects at general aviation airports shall conform to those included in OAR 738-020-0020, as depicted for general aviation community airports.

(e) All airport projects shall be designed consistent with projected needs as shown on the airport's current ALP.

(f) Projects for improvements to facilities under exclusive lease or monopoly control of private persons or entities are not eligible for projects located on airports recognized as NPIAS.

(g) In the case of projects listed in (6)(e)(T), the applicant shall identify in the FAM grant application the percentage of anticipated on-airport and off-airport use of the equipment. The FAM grant funding grant offer percentage for the equipment shall not exceed the percentage estimated for on-airport use, not to exceed \$150,000.

(7) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and subsections (a) and (b) of this section, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section. The reports described in this section shall be submitted:

(a) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and

(b) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0040

Application Process

(1) The Department shall provide potential applicants with an application package for the FAM Grant Program, to include:

(a) A copy of OAR 738-125 "Financial Aid to Municipalities (FAM) Grant Program."

(b) An application form requiring full disclosure of all information needed to fairly evaluate the applicant's need for a grant;

(c) Clear instructions for completing the grant application;

(d) A list and samples of mandatory supporting documents and addenda, including instructions for their preparation; and

(e) A sample grant agreement.

[(2) The Department shall, on an annual basis, inform all Oregon municipalities that are public-use airport sponsors that FAM grants are available, and how to obtain an application packet. The notice shall include a list of all application deadlines.]

(2) The Department shall, on an annual basis, inform all Oregon municipalities with public use airports, and sponsors of privately owned public-use airports, that FAM grants are available, and how to obtain an application packet. The notice shall include a list of all application deadlines.

(3) To be considered for a FAM grant, a completed application package, including all required information, materials, attachments and addenda must be submitted to the Department by the application deadline.

(4) If additional FAM grant funds become available between annual grant cycle deadlines, the Department will:

(a) Award grants to applicants who submitted an eligible grant application but did not receive a first-round grant.

(b) If all applicants received funding in the first-round, inform all eligible municipalities, and establish a supplemental application cycle. The supplemental application process shall conform to this rule.

[(c) If an applicant received a first-round grant, the applicant is not eligible to receive a grant in a supplemental application cycle. No applicant shall receive more than \$25,000 per fiscal year per airport.]

(c) Award no more than \$150,000 per application, per airport.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0045

Project Selection and Fund Allocation

(1) The Department shall consider the following factors in its review of all eligible projects:

(a) Funds budgeted for the FAM Grant Program;

(b) Demand for program assistance by applicants; and

(c) Total available funds compared to total numbers of applicant projects.

[(2) The Department shall develop a list of recommended projects for submittal to the Board for review and approval.]

(2) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(a) The review committee shall meet as necessary to review applications for distribution of funds for the FAM Grant Program. ORS 367.084 (3) applies to the review process of the review committee.

(b) The review committee shall recommend applications to the State Aviation Board.

(3) Applications must be formally approved by the Aviation Board before the Department may commit to any grant or enter into a grant agreement with the airport sponsor.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0050

Grant Agreements

(1) The Department shall enter into a Grant Agreement with municipality selected to receive a FAM grant prior to distributing program funds.

(2) FAM Grant Agreements shall include the following elements:

(a) General terms of agreement, including but not limited to:

(A) The specific airport project receiving grant funding;

(B) Maximum dollar allocation;

(C) Effective dates of the grant;

(D) Rights to terminate the grant agreement;

(E) Inspection and reporting requirements to verify project work and expenditures before distribution of grant program funds; and

(F) Other terms and conditions as specified in the Sample Grant Agreement provided with the application packet.

(b) Municipality obligations, including but not limited to:

(A) The cash or in-kind match required from the municipality;

(B) A requirement that grant recipients must maintain and operate the airport as an airport in a usable, safe, and orderly manner at all times for a period of at least 20 years from the date of the agreement;

(C) A financial requirement that grant recipients must deposit all income derived from the airport into an airport account for a period of at least 20 years from the date of the agreement, with those funds used only for the operation, maintenance or capital improvement of the airport;

(D) A prohibition against the applicant and its contractors and lessees or any successor thereto granting any exclusive right to use the airport or airport improvements, or to provide services at the airport during the life of the agreement, or for 20 years, whichever is longer; and

(E) A requirement that applicant will insert provisions in future lease agreements or contracts requiring all aircraft based at the airport to be registered with Department in accordance with ORS 837.040. Based aircraft is defined as those aircraft based at an airport for more than 30 days.

(c) Department's obligations, including but not limited to:

(A) Conditions of disbursement of grant funds **including obligation to repay funds if the terms of the agreement are not complied with**; and

(B) Other Department obligations as specified in the Sample Grant Agreement provided with the application packet.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**

738-125-0055

Waivers and Exceptions

The Board may, in its discretion and/or upon the recommendation of the Department, waive any provision of this rule upon a finding that there is an imminent and likely loss of a facility, or of funds available to a facility, or that a condition exists causing imminent danger to pilots or aircraft using an airport, and that an immediate FAM grant is reasonably likely to alleviate the loss or danger. **The Board may also, in its discretion and/or upon the recommendation of the Department, make exceptions to the minimum and maximum allowable limits of a grant award.** In making such a finding the Board must find:

(1) The project proposed meets the overall purpose of the FAM program, and is consistent with the provisions and policies of the OAP;

(2) There is in the Board's reasonable judgment evidence showing that any of the following would be adversely affected unless FAM funds were made available:

(a) Aviation safety;

(b) Community safety;

(c) Airport viability;

(d) Availability of federal funds; and

(3) Alternate funding sources are inadequate to meet the need addressed by the proposed exception.

Stat. Auth.: ORS 835.035, 835.040, 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, **319.020**