

**TEMPORARY ADMINISTRATIVE RULES**

A Statement of Need and Justification accompanies this form.

**FILED**  
3-8-17 3:16 PM  
ARCHIVES DIVISION  
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I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 03/07/2017 by the

|   |                                     |
|---|-------------------------------------|
| Oregon Department of Aviation                 | 738                                 |
| Agency and Division                           | Administrative Rules Chapter Number |
| Lauri Kunze                                   | (503) 986-3171                      |
| Rules Coordinator                             | Telephone                           |
| <u>3040 25th St. SE, Salem, OR 97302-1125</u> |                                     |
| Address                                       |                                     |

To become effective 03/08/2017 through 09/01/2017.

**RULE CAPTION**

Amends Divisions 124 and 125 ensuring compliance and fiscal responsibility of applicants for grants

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

738-124-0020, 738-125-0020

**SUSPEND:**

**Statutory Authority:**

ORS 835.035, 835.040, 835.112, OL 2015 c.700 § 7(2)

**Other Authority:**

None

**Statutes Implemented:**

ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2015 c. 700 §§7,8

**RULE SUMMARY**

These proposed amendments to the administrative rules ensure compliance with Divisions 124 and 125 as well as ensuring the fiscal responsibility of applicants for COAR Grants.

|                        |                                |
|------------------------|--------------------------------|
| Lauri Kunze            | lauri.g.kunze@odot.state.or.us |
| Rules Coordinator Name | Email Address                  |

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules  
accompanies this form.

**FILED**  
3-8-17 3:16 PM  
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Oregon Department of Aviation  
Agency and Division

738  
Administrative Rules Chapter Number

Amends Divisions 124 and 125 ensuring compliance and fiscal responsibility of applicants for grants

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

the amendment of OAR 738-124-0020(2) and OAR 738-125-0020(5)

**Statutory Authority:**

ORS 835.035, 835.040, 835.112, OL 2015 c.700 § 7(2)

**Other Authority:**

None

**Statutes Implemented:**

ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2015 c. 700 §§7,8

**Need for the Temporary Rule(s):**

Need text will not load. Please see attachment below.

**Documents Relied Upon, and where they are available:**

None

**Justification of Temporary Rule(s):**

The amendments to these administrative rules ensure compliance with Divisions 124 and 125 as well as ensuring the fiscal responsibility of applicants for COAR Grants.

At the time the Department files these temporary rules it will begin the permanent rulemaking process which will allow the Aviation Board and the public to review and comment on the permanent rules which are initially the same as the temporary rules. By adopting a temporary rule, the Department will have the ability to issue grant agreements while simultaneously following the formal rulemaking process for adoption of permanent administrative rules.

Failure by the Oregon Department of Aviation to act promptly in adopting temporary rules may result in delays to issuing grants that are legislatively mandated to be distributed. Immediate action is critical due to the existing sunset on the legislation, effective January 1, 2022. Implementation of the programs within the ASAP Fund may be substantially delayed should the Department fail to have temporary rules in place, thus affecting grant applications for eligible projects selected through OAR 738-124-0035.

Lauri Kunze

lauri.g.kunze@odot.state.or.us

Printed Name

Email Address

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Aviation  
Agency and Division

738  
Administrative Rules Chapter Number

In the Matter of the amendment of OAR 738-124-0020(2) and OAR 738-125-0020(5)

**Rule Caption:** Amends Divisions 124 and 125 ensuring compliance and fiscal responsibility to applicants of grants

**Statutory Authority:** ORS 835.035, 835.040, 835.112, OL 2015 c.700 § 7(2)

**Other Authority:** None

**Statutes Implemented:** ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2015 c. 700 §§7,8

**Need for the Temporary Rule(s):**

These amendments allow the ASAP program to be inclusive of the entire FAM program as it applies to the grant process as found in OAR 738-124-0020(2) and ensures that financial obligation are met at the state and local level as found in OAR 738-125-0020(5). These are important considerations that must be addressed prior to the grants being awarded and grant agreements being executed.

**Documents Relied Upon, and where they are available:**

None

**Justification of Temporary Rules(s):**

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\_\_\_\_\_  
Authorized Signer

\_\_\_\_\_  
Printed name  
Date

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**TEMPORARY ADMINISTRATIVE RULES**

|  |                                     |
|--|-------------------------------------|
| Oregon Department of Aviation          | 738                                 |
| Agency and Division                    | Administrative Rules Chapter Number |
| Lauri Kunze                            | lauri.g.kunze@odot.state.or.us      |
| Rules Coordinator                      | Email Address                       |
| 3040 25th St. SE, Salem, OR 97302-1125 | 503-986-3171                        |
| Address                                | Telephone                           |
| 03/07/2017                             |                                     |
| Adopted on                             |                                     |
| 03/08/2017 thru 09/01/2017             |                                     |
| Effective dates                        |                                     |

**RULE CAPTION**

Amends Divisions 124 and 125 ensuring compliance and fiscal responsibility of applicants for grants

Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

AMEND: 738-124-0020, 738-125-0020

**SUSPEND:**

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c. 700 Â§ 7(2)

Other Auth.: None

Stats. Implemented: ORS 835.015, 835.025, 836.015, 836.070, 319.020, OL 2015 c. 700 Â§Â§7,8

**RULE SUMMARY**

These proposed amendments to the administrative rules ensure compliance with Divisions 124 and 125 as well as ensuring the fiscal responsibility of applicants for COAR Grants.

**STATEMENT OF NEED AND JUSTIFICATION**

the amendment of OAR 738-124-0020(2) and OAR 738-125-0020(5)  
In the Matter of

None

Documents Relied Upon, and where they are available

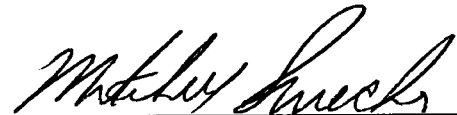
Need for the Temporary Rule(s)

The amendments to these administrative rules ensure compliance with Divisions 124 and 125 as well as ensuring the fiscal responsibility of applicants for COAR Grants.

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Failure by the Oregon Department of Aviation to act promptly in adopting temporary rules may result in delays to issuing grants that are legislatively mandated to be distributed. Immediate action is critical due to the existing sunset on the legislation, effective January 1, 2022. Implementation of the programs within the ASAP Fund may be substantially delayed should the Department fail to have temporary rules in place, thus affecting grant applications for eligible projects selected through OAR 738-124-0035.

Justification of Temporary Rules



Mitch Swecker

3/2/17

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

### **738-124-0020**

#### **Application Submission Periods**

- (1) The Department will announce periods for submitting applications for funding from the Aviation System Action Program Fund.
- (2) Project applications will be reviewed for compliance with the requirements as prescribed in Chapter 738, division 124 and 125 rules.
- (3) Applications not funded may be resubmitted during subsequent application submission periods announced by the Department.

Stat. Auth.: ORS 835.035, 835.040, 835.112, OL 2015 c.700 Section 7

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

### **738-125-0020**

#### **Applicant Eligibility**

- (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), 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, 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) Applicants that are delinquent on any financial obligation to federal, state or local governments may not receive a grant or grants from ODA. Any exceptions to this requirement must be approved by the State Aviation Board.

Stat. Auth.: ORS 835.035, 835.040 & 835.112

Stats. Implemented: ORS 835.015, 835.025, 836.015 & 836.070