



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-90.1

Summary

The Department of Transportation (department) proposes these amendments to comply with the Fly the Big Sky legislative audit findings dated September 2022, and to provide clarifying language for the benefit of grant and loan applicants.

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 92. The department has determined that airport sponsors are the only persons directly affected by this notice of proposed rulemaking because they are the only persons eligible to apply for grants and loans. There are currently 92 airport sponsors. If airport sponsors wish to cause a hearing to be held, the department must receive hearing requests from at least nine airport sponsors.

Comments

Comments must be received by Friday, September 19, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, September 12, 2025, at 5:00 p.m.

Contact

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General Reasonable Necessity Statement

These amendments are necessary to respond to findings from the Fly the Big Sky legislative audit conducted in September of 2022.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

18.13.405 APPLICATION PROCESS, FEES, AND DEADLINES

- (1) All eligible applicants must complete the application form found on the Department of Transportation's web site at www.mdt.mt.gov. Paper copies of the application may be obtained by contacting the Aeronautics Division at P.O. Box 200507, Helena, MT 59620-0507. Applications for the next following fiscal year grant and loan program will be accepted by the Aeronautics Division at any time after July 1st of each year. Completed applications and all supplemental materials must be submitted electronically, by first class mail, e-mail, or hand delivery to the Aeronautics Division to be received or postmarked no later than November 15 of the appropriate year. The deadline may be subject to change by the Aeronautics Division after official notification of any change in the deadline that is posted on the Department of Transportation's web site and sent to the official manager of record of every eligible airport.
- (2) Each application must be complete and accompanied by all required supplemental materials. The Aeronautics Division reserves the right to reject ineligible,

incomplete, or otherwise improper applications. Applications submitted electronically via the Aeronautics Division's web site must be verified via electronic signature. The Aeronautics Division may request additional information if warranted after initial application review.

- (3) There is no fee for any part of the application or review process.
- (4) After the application submission deadline, the Aeronautics Division will review, organize, and disseminate all applications to the board. In addition, the Aeronautics Division will provide a summary analysis of those applications which shall include, at a minimum, the grant and/or loan amount requested by the airport, the cost of the project for which the grant or loan is being applied, as well as a rating according to the Federal Aviation Administration's National Priority System.
- (5) The applicant is solely responsible for any incomplete, improperly edited or erroneous information submitted as part of the application.

Authorizing statute(s): 2-15-2506, 67-1-103, 67-2-102, MCA

Implementing statute(s): 2-15-2506, 67-1-103, 67-1-301, 67-1-304, 67-1-307, 67-1-309, MCA

18.13.406 EVALUATION, REVIEW, AND SELECTION

- (1) After the final submission deadline for applications, each board member will independently review each application prior to the board meeting.
- (2) The board will hold an annual public grant and loan review meeting. Notice for the meeting will be in accordance with state law. The board may allow applicants, supporters or opponents to speak or provide for a presentation regarding applications during the meeting. The board will review and discuss applications and vote on disbursement of grant and loan monies during the public meeting.
- (3) All funding discussions, priority setting, and grant or loan amount allocations will occur in a recorded public meeting so as to ensure complete transparency of the process. A publicly viewable spreadsheet will be used during the meeting to rank and track priorities as discussed by the board, assign allocations and ensure a fair and public assignment of grant and loan amounts to the applicant organizations. Extemporaneous information, such as the withdrawal of requests, change of requested amounts, and change of FAA allotments and funding priorities, along with other new information, is often introduced during the allocation process and discussion by the board. Given the variable nature of this information and in the interest of ensuring complete and fair disbursement of available funds, the

distribution spreadsheet is dynamic up until the point of adoption, requiring a variable selection and scoring system.

~~(3)~~(4) Projects which are specifically related to airports, and airport development, and aviation/public safety will be given the highest priority when evaluating applications for aeronautically related projects. The board shall utilize the Federal Aviation Administration's National Priority System as an initial rating to assist in the grant and loan award process, but not as the sole determinant, as the federal priorities may not align perfectly with state and local priorities.

(a) Additional factors for consideration when weighing award priorities may include project timing, local funding sources and constraints, technological advances, regional and federal aviation initiatives, and numerous other objective factors that may develop over time.

(b) Additional priority consideration will be given to the project's positive impact on safe aeronautical operations at the airport, as well as the overall impact on the aviation community.

~~(4)~~(5) The board shall use its unique expertise as members of Montana's airport and aviation community to objectively award grants and loans to applicants based on the criteria in this rule. The board may offer applicants amounts higher or lower than the amounts requested in the applications. The board may offer grants in place of loans and vice versa.

Authorizing statute(s): 2-15-2506, 67-1-103, 67-2-102, MCA

Implementing statute(s): 2-15-2506, 67-1-103, 67-1-301, 67-1-304, 67-1-306, 67-1-307, 67-1-309, MCA

Reasonable Necessity Statement

In addition to the finding of the audit, these amendments also are intended to provide clarifying language to grant and loan applicants.

18.13.407 TERMS AND CONDITIONS OF SUCCESSFUL APPLICANTS

- (1) Successful applicants will receive approved monies after the start of the appropriate fiscal year for which the money was approved.
- (2) All grant or loan offers will expire and all grant or loan payments must be disbursed by the end of the fiscal year for which they were approved, unless the Montana Aeronautics Board has approved an extension for the offer. All requests for extension shall be submitted to the Montana Aeronautics Division to be received or

postmarked no later than the third Friday in May. This deadline may be subject to change by the Aeronautics Division after official notification of any change in deadlines is posted on the Department of Transportation's web site and sent to all affected grant or loan offer recipients.

- (3) The Aeronautics Division must be in receipt of the appropriate documents listed below, or any combination as requested by the board in its grant or loan application approval, prior to disbursing payment for approved grants or loans. The Aeronautics Division will accept copies of an appropriate federal aid agreement directly from the Federal Aviation Administration. Other listed documents must be received directly from the grant or loan recipient before payment will be made by the Aeronautics Division. The Aeronautics Division will make payment upon receipt of all necessary documents.
- (4) A grant for a nonfederally aided project must include:
 - (a) a signed grant agreement that includes signed approval of sponsor's attorney; and
 - (b) an official notice to proceed.
- (5) A loan for a nonfederally aided project must include:
 - ~~(a)~~ signed approval of sponsor's attorney;
 - ~~(b)~~(a) a signed loan agreement that includes signed approval of sponsor's attorney repayment resolution; and
 - ~~(c)~~(b) an official notice to proceed.
- (6) A grant for a federally aided project must include:
 - (a) a signed grant agreement that includes signed approval of sponsor's attorney; and
 - (b) a copy of federal aid agreement.
- (7) A loan for a federally aided project must include:
 - ~~(a)~~ signed approval of sponsor's attorney;
 - ~~(b)~~(a) a signed loan repayment resolution agreement that includes signed approval of sponsor's attorney; and
 - (c) a copy of federal aid agreement.
- (8) If an applicant fails to submit required documentation necessary for disbursement, or requests an extension for disbursement but does not receive disbursement within the fiscal year for which the grant or loan was awarded, grants and loans will revert back to the same special aeronautics grant or loan account in the state

special revenue fund from which they were originally appropriated. The reverted funds may then be awarded in the future to any successful applicant.

- (9) Grants and loans awarded by the board for a fiscal year, but not disbursed to the applicant within that fiscal year, will revert to the same special aeronautics grant or loan account in the state special revenue fund from which they were originally appropriated to be used for future grant or loan awards to any applicant.
- (10) Each grant or loan recipient must submit a close-out report and supporting documentation that adequately accounts for all expenditures, on a form provided by the board, within 30 days after closure of the project or board-approved category of work, or within one year after fund disbursement, whichever occurs earliest. If the project is not completed within one year following fund disbursement, the grant or loan recipient must provide a status report detailing the reason the project has not been closed, and projected closure date upon which the close-out report will be filed.
- (11) The close-out report must include information on ~~amount requested, amount awarded by the board~~ amount disbursed, and amount actually spent on board-approved project work. ~~The grant or loan recipient must adequately account for expenditures in a manner acceptable to the board.~~
- (12) ~~The board may request r~~Reimbursement from the grant or loan recipient of grant or loan funds awarded and disbursed funds not actually spent on board-approved project work is required by the board.
- (13) The board may pay any additional amount not previously disbursed, which may be due to the grant or loan recipient for board-approved work, up to the total amount awarded by the board. ~~The board will not request reimbursement nor make additional disbursement for any amounts under \$500.~~
- (14) Any grant or loan recipient which fails to provide the close-out form, status report, or any requested reimbursement is not eligible for future grant or loan awards until the deficiency is remedied.

Authorizing statute(s): 2-15-2506, 67-1-103, 67-2-102, MCA

Implementing statute(s): 2-15-2506, 67-1-103, 67-1-301, 67-1-304, 67-1-307, 67-1-309, MCA

Small Business Impact

The proposed rule amendments only impact airport sponsors eligible to apply for a grant or loan by no longer allowing airport sponsors to keep up to \$500 in grants or loans not spent on intended purposes. That is a benefit to which the airport sponsors are not entitled, and which has not frequently been used. Therefore, the small business impact analysis performed as

required by 2-4-111, MCA indicates no small businesses are likely to be significantly and directly impacted by the proposed rule amendments. Documentation of the small business impact analysis is available upon request.

Tribal Impact

With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment of the above-referenced rules will not have direct tribal implications.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Tyler Moss, Attorney

Approval

Christopher Dorrington, Director