

Amended by R.1994 d.449, effective September 6, 1994.
See: 26 N.J.R. 2238(a), 26 N.J.R. 3715(a).

7:61-3.16 Suspension or revocation of license/appointment

(a) Any pilot who is intoxicated while on duty or subject to being called on duty shall immediately be prohibited from engaging in pilotage operations and shall, after opportunity for a hearing:

1. For the first offense:
 - i. Forfeit the pilotage fee for the pilotage operations performed while intoxicated;
 - ii. Be suspended from duty for six months; and
 - iii. Pay a penalty of \$50.00; and

2. For the second offense, have his or her license permanently revoked.

(b) Any apprentice who is intoxicated while on duty or subject to being called on duty shall immediately be prohibited from engaging in pilotage operations and shall, after opportunity for a hearing, have his or her registration permanently revoked.

(c) Any pilot or apprentice who fails to comply or cooperate with specimen collection and/or chemical drug testing; or who tests positive on a chemical drug test required pursuant to this subchapter or a chemical drug test required pursuant to a Federal statute or regulations, including 46 C.F.R. part 16; or who is convicted under a Federal or state criminal drug statute or for a second conviction under any state motor vehicle statute for driving while under the influence or driving while intoxicated; or who violates any other provision of the subchapter, shall immediately be prohibited from engaging in pilotage operations and shall, after opportunity for a hearing, have his or her license/registration permanently revoked unless there are extenuating circumstances which, in the discretion of the Board, justify only the suspension of his or her license/registration.

(d) Any pilot or apprentice who was prohibited from engaging in pilotage operations pending a hearing before the Board and who is not suspended or who does not have his or her license/registration revoked following his or her hearing before the Board shall be returned to normal duties and shall receive retroactive pay for the period during which he or she was prohibited from engaging in pilotage operations.

(e) Any pilot or apprentice who is suspended from duty pursuant to (a), (b) and/or (c) above must pass a chemical drug test for dangerous drugs and alcohol prior to reinstatement. The specific date of such test shall be unannounced, but shall occur within the month prior to reinstatement. Notice of the specific date of such test shall be provided only so far in advance as is necessary to ensure the individual's presence at the time and place set for testing. In addition, the pilot or apprentice shall be subject to in-

creased, unannounced chemical drug testing for dangerous drugs and alcohol at the pilot's or apprentice's expense for a period as determined by the MRO of up to 60 months.

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7:61-3.17 Hearings and appeals

(a) Hearings conducted for violations of this subchapter and the imposition of penalties shall be conducted before the Board or if the Board so directs shall be referred to the Office of Administrative Law pursuant to the procedures at N.J.A.C. 1:1.

(b) Notice of hearing, time and place of hearing, alleged violation(s) and possible penalties to be imposed shall be in writing. This written notice of hearing must be received by the alleged violator, either by personal service or by certified mail sent to his or her usual place of abode, at least 15 calendar days prior to the date of the hearing.

7:61-3.18 Responsibilities of the Association

(a) After consultation with and approval by the Board, the Association shall promptly enter into an agreement(s) or contract(s) with a testing facility and an MRO for the performance of the tests and duties required by this subchapter.

(b) It shall be the responsibility of the Association, except as otherwise provided in this subchapter, to pay for the tests required by this subchapter and the fees of the MRO.

(c) It shall be the responsibility of the Association to direct the pilots and apprentices to present themselves at the time and place for the test(s) required by this subchapter.

(d) The contract(s) or agreement(s) between the Association and the laboratory selected to do the testing and the MRO shall provide that the laboratory and MRO shall cooperate with the Board and shall comply with the requirements of this subchapter including maintaining the confidentiality of test results, providing reports, providing documents and providing competent witnesses for hearings.

(e) This subchapter shall not in any way limit the authority of the Board to suspend or revoke the license of any pilot or terminate any apprenticeship as authorized by any other regulations of the Board or the laws of the State of New Jersey.

(f) The Association shall submit a copy of its proposed procedures implementing this subchapter and copies of the proposed agreement(s) or contract(s) between the Association and the organization designated to conduct the testing and MRO to the Board for review and approval.

(g) This subchapter shall not in any way preclude other drug or alcohol testing required or authorized by any state or Federal statute or regulation.

(h) At each regular meeting of the Board, the President of the Association shall report the number of random chemical drug tests performed pursuant to the requirements of this subchapter, a summary of the number of verified positive tests and negative tests and the dangerous drugs which have been identified in the verified positive tests.

(i) In the event the President of the Association is unable to perform the duties imposed upon him or her by this subchapter they may be performed by a member of the Executive Committee of the Association.

7:61-3.19 Incorporation by reference

(a) Any reference in this subchapter to any of the documents or sources listed in (c) below shall be deemed to incorporate such document or source by reference.

(b) Any future supplements or amendments to any of the documents or sources incorporated by reference into this subchapter will not be incorporated in this subchapter or become operative in New Jersey unless the Board proposes an amendment to this subchapter, and will provide opportunity for public comment on such proposed amendment, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) The following documents and sources are incorporated by reference within this subchapter:

1. United States Code, Title 21, Parts 802 and 812;
2. Code of Federal Regulations, Title 21, Parts 1301-1316; and
3. Code of Federal Regulations, Title 49, Part 40, Procedures for Transportation Workplace Drug Testing Programs, Sections 40.23, 40.25, 40.27, 40.29, 40.31 and 40.39.