

CHAPTER 56

AIRPORT SAFETY IMPROVEMENT AID

Authority

N.J.S.A. 27:1A-5, 27:1A-6, 6:1-29, 6:1-44 and the "Airport Safety Act of 1983," P.L. 1983, c.264, effective July 11, 1983 (N.J.S.A. 6:1-89 et seq.).

Source and Effective Date

R.1994 d.372, effective June 22, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

Executive Order No. 66(1978) Expiration Date

Chapter 56, Airport Safety Improvement Aid, expires on June 22, 1999.

Chapter Historical Note

Chapter 56, Airport Safety Improvement Aid, was filed and became effective prior to September 1, 1969. Further amendments were filed and became effective May 28, 1971 as R.1971 d.84. See: 3 N.J.R. 115(c), 3 N.J.R. 65(b). Subchapter 3 previously contained rules concerning the Aircraft Registry Log which were repealed, effective September 10, 1981, by R.1981 d.341. See: 13 N.J.R. 457(b), 13 N.J.R. 616(b). Chapter 56 previously contained rules concerning Aircraft Registration which were repealed, effective November 7, 1983, by R.1983 d.476. See: 15 N.J.R. 1453(c), 15 N.J.R. 1870(b). Further amendments were filed and became effective on June 4, 1984 as R.1984 d.207. See: 16 N.J.R. 694(a), 16 N.J.R. 1372(a). Pursuant to Executive Order No. 66(1978), Chapter 56 expired on June 4, 1989. The provisions of Chapter 56 were adopted as new rules by R.1989 d.413, effective August 7, 1989. See: 21 N.J.R. 1502(a), 21 N.J.R. 2299(b).

Pursuant to Executive Order No. 66(1978), Chapter 56 was readopted as R.1994 d.372. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS

16:56-1.1 Definitions

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Airport Safety Fund” means the special fund established by the “Airport Safety Act of 1983” to help finance improvements to air safety and travel.

“Applicant” means any person seeking funds from the Airport Safety Fund.

“Commissioner” means the Commissioner of the New Jersey Department of Transportation.

“Department” means the Department of Transportation.

“Division” means the Division of Aeronautics.

“Executive Director” means the Executive Director of the Division of Aeronautics.

“Person” means any corporation, company, association, society, firm, partnership, or joint stock company, as well as any individual, the State, and all political subdivisions of the State or any agencies or instrumentalities thereof.

“Sponsor” means any person in receipt of funds from the Airport Safety Fund.

“State Aid” means funds disbursed from the Airport Safety Fund for the purposes of this chapter.

“Unrestricted public use airport” means any area of land, water, or both, either publicly or privately owned, which is licensed for the landing or takeoff of aircraft and open to the public for aeronautical operations that does not have restrictive covenant on operational use by the general public for reasons other than safety.

“Waiver” means relief from application requirements of this rule or temporary relief from other provisions of this rule for a specified time period.

Amended by R.1994 d.372, effective July 18, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

Case Notes

Airport statute renders property used for or reasonably necessary for or incidental to a municipal airport immune from zoning regulations; municipality cannot invade immunity by inhibiting appropriate uses of such property; township ordinance prohibiting use of airport by commercial air carriers held invalid (citing former rule). Town of Morris-

town, v. Tp. of Hanover, 168 N.J.Super. 292, 402 A.2d 983 (App.Div. 1979).

SUBCHAPTER 2. PURPOSE

16:56-2.1 Purpose and general policy

(a) The legislature has found that:

1. New Jersey's public use general aviation airports are an integral part of the State's transportation network and promote mobility and economic activities of common public benefit. These public use general aviation transportation facilities must be improved in order to realize their full benefit.

2. There is a need to improve general aviation airports, which require such improvements and equipment as radar, instrument landing aids and weather-reporting equipment to enable them to safely handle modern general aviation aircraft.

3. Many publicly owned general aviation airports are unable to obtain all of the federal funds available to them for airport development because they are unable to raise money for their local matching requirements.

4. Many privately owned public use general aviation airports which are essential to the State's economic development are in danger of conversion to non-aviation uses, and it is in the public interest to provide State assistance to preserve these airports, through acquisition or other means.

(b) The Commissioner of Transportation is therefore establishing programs:

1. To provide grants to publicly and privately owned unrestricted public use airports to obtain federal funds for airport assistance. The Commissioner is authorized to provide up to 50 percent of the required local match; except that the Commissioner is authorized to provide up to 100 percent of the required local match when he deems that an emergency situation exists.

2. To provide grants or loans to publicly owned and private unrestricted public use airports for safety projects, including but not limited to engineering, planning, construction and rehabilitation of lighting runways, aprons, airport approach aids and obstruction removals.

3. To provide grants or loans to publicly owned airports or counties or municipalities to acquire airports or lands, rights in land and easements, including aviation easements necessary for clear zones or clear areas, which are owned, controlled or operated, or to be owned, controlled or operated by municipalities, counties or other political subdivisions of this State.

1. Airport safety improvement grants may be authorized for projects and sponsors eligible under N.J.A.C. 16:56-3.1.

2. Grants for routine airport safety improvement projects are generally limited to a \$100,000 maximum authorization biennially (24 month period) to any eligible sponsor. Project grants in excess of \$100,000 may be authorized by the Commissioner on a case-by-case basis when such aviation development is in the best interests of the State and will benefit the flying public as a whole. The State's participation in grants exceeding \$100,000 shall not exceed 90 percent of the total project cost and the sponsor's participation shall not be less than 10 percent of the total project cost.

3. Airport safety improvement grants may be developed or conditioned as to the specific provisions on a case by case basis by the Commissioner. The Commissioner may not, however, develop or offer a grant which funds operational costs or debt service financial needs of a project or eligible recipient of aid.

4. The improvements made using airport safety improvement grants shall be given a useful life of 10 years unless the plans and specifications for the improvement indicate to the satisfaction of the Commissioner that the time period should be greater or lesser than 10 years.

(f) The Commissioner, when authorizing aid from the Airport Safety Fund, retains absolute discretion within the limits of the applicable statutes to determine thresholds of State participation in any project funded under the provisions of this chapter. Maximum thresholds and percent of State participation determinations in State funded projects may be made by the Commissioner on either a categorical or case by case basis. The Commissioner may promulgate Departmental Policies, Procedures, and orders to aid in the implementation of the provisions of this chapter.

(g) These shall be absolute upper limits to the aid authorized under this chapter. The purpose of these limits is to help ensure that there are sufficient resources available for state aid to the greatest number of eligible airports and that State resources for any one year are not expended on a limited few airport projects. The absolute upper limit of aid as authorized to an eligible sponsor shall be as follows:

1. The biennial limit on State Airport Safety Improvement grants is \$100,000, except when specifically exempted by the Commissioner under N.J.A.C. 16:56-4.1(e)2.
2. The limit on State Airport Safety Improvement Loans is \$90,000.
3. The limit on State Grants for Matching Federal Funds is 10 percent of any total project cost.
4. The limit on aid for aviation planning purposes shall be determined by the Commissioner under the provisions of N.J.A.C. 16:56-11.2.

Amended by R.1985 d.366, effective July 15, 1985.

See: 17 N.J.R. 1067(a), 17 N.J.R. 1779(a).

Improvement grants raised from \$7,500 to \$15,000.

Amended by R.1986 d.246, effective July 7, 1986.

See: 18 N.J.R. 933(b), 18 N.J.R. 1402(a).

Annual maximum raised from \$15,000 to \$50,000.

Amended by R.1987 d.465, effective November 16, 1987.

See: 19 N.J.R. 1634(b), 19 N.J.R. 2200(a), 19 N.J.R. 2200(a).

Substantially amended section and a correction deleting "an annual" in (d)2.

SUBCHAPTER 5. APPLICATION FOR MATCHING FEDERAL FUNDS

16:56-5.1 Application for receipt of State grants for matching Federal funds

(a) Persons seeking State grants for matching funds may request application and agreement forms by writing to the following address:

Division of Aeronautics
N.J. Department of Transportation
1035 Parkway Avenue
CN 610
Trenton, New Jersey 08625-0610

(b) If the intended project is a construction or facility modification project the applicant shall:

1. Engage a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required.
2. Provide certified maps, reports, construction plans and specifications and contract documents as may be required by the State.

(c) For construction or installation projects, the applicant shall further provide:

1. An "Application for New Aeronautical Facility License or Alteration," as required under N.J.A.C. 16:54.
2. A copy of the Federal Aviation Administration approved Airport Layout Plan.
3. Detailed construction plans and specifications of the project and materials used therein and a construction schedule. These submissions are to be prepared by the applicant's engineer.
4. Detailed cost sheets for the materials to be used in the project to include required as built quantities, material specifications and unit prices.
5. Completed application and agreement forms as provided by the Department.
6. Any other materials or information deemed necessary by the Department.

(d) For aid applications requesting equipment for crash/fire/rescue or aid for necessary airport engineering/planning/environmental studies, the application shall submit the completed forms, provided by the Department and supply additional information as requested.

(e) The Commissioner may waive the requirement to submit specific maps, reports, or plans normally required for an aid application. The waivers may be granted only after a written request to the Executive Director and formal written response to the applicant by the Executive Director prior to submission of the completed application to the Division.

Amended by R.1994 d.372, effective July 18, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

SUBCHAPTER 6. APPLICATION FOR SAFETY IMPROVEMENT LOANS

16:56-6.1 Application for receipt of State Airport Safety Improvement Loans

(a) Persons seeking State Airport Safety Improvement loans may request application and agreement forms by writing to the following address:

Division of Aeronautics
N.J. Department of Transportation
1035 Parkway Avenue
CN 610
Trenton, New Jersey 08625-0610

(b) If the intended project is a construction or facility modification project the applicant shall:

1. Engage a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required.

2. Provide certified maps, reports, construction plans and specifications and contract documents as may be required by the Department.

(c) For construction or installation project(s), the applicant shall further provide:

1. An "Application for New Aeronautical Facility License or Alteration," as required under N.J.A.C. 16:54.

2. A legal deed or instrument verifying ownership including a narrative legal description of the metes and bounds of the airport property certified as accurate by a New Jersey registered land surveyor or professional engineer.

3. A statement or certificate from the appropriate governing body that the proposed facility or the construction, demolition, or modification of an existing facility as submitted in the application is not contrary to current zoning codes or ordinances. If the proposed facility or the construction, demolition, or modification of an existing facility is contrary to current zoning codes or ordinances, the applicant shall submit a statement detailing the conflict and explaining the need for the proposed facility alteration, together with copies of all relevant provisions of the pertinent zoning laws and applications which have been made for local zoning approval.

4. A completed copy of "Notice of Landing Area Proposal" or "Notice of Proposed Construction or Alteration" (FAA Forms 7480-1 or 1460-1 as it may be amended or superseded) at the same time it is forwarded to the Federal authorities.

5. Detailed construction plans and specifications of the project and materials used therein and a construction schedule. These submissions are to be prepared by the applicant's engineer.

6. Detailed cost sheets for the materials to be used in the project to include required as built quantities, material specifications, unit prices and source vendors. These costs sheets to be prepared by the applicant's engineer.

7. Completed application and agreement forms as provided by the Department.

8. Any other materials or information deemed necessary by the Department.

(d) For aid applications requesting equipment for crash/fire/rescue or search and rescue purposes, the applicant shall submit the completed forms provided by the Department and supply additional information as requested.

(e) The Commissioner may waive the requirement to submit specific maps, reports, or plans normally required for an aid application. The waivers may be granted only after a written request to the Executive Director and formal written response to the applicant by the Executive Director prior to submission of the completed application to the Division.

Amended by R.1994 d.372, effective July 18, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

SUBCHAPTER 7. APPLICATION FOR SAFETY IMPROVEMENT GRANTS

16:56-7.1 Application for receipt of State Airport Safety Improvement Grants

(a) Persons seeking State Airport Safety Improvement Grants may request application and agreement forms by writing to the following address:

Division of Aeronautics
 N.J. Department of Transportation
 1035 Parkway Avenue
 CN 610
 Trenton, New Jersey 08625-0610

(b) If the intended project is a construction or facility modification project the applicant shall:

1. Engage a professional engineer registered in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering and inspection and material testing as required.

2. Provide certified maps, reports, construction plans and specifications and contract documents as may be required by the Department.

(c) For construction or installation projects, the applicant shall further provide:

1. An "Application for New Aeronautical Facility License or Alteration," as required under N.J.A.C. 16:54.

2. A legal deed or instrument verifying ownerships including a narrative legal description of the metes and bounds of the airport property certified as accurate by a New Jersey registered land surveyor or professional engineer.

3. A statement or certificate from the appropriate governing body that the proposed facility or the construction, demolition, or modification of an existing facility as submitted in the application is not contrary to current zoning codes or ordinances. If the proposed facility or the construction, demolition, or modification of an existing facility is contrary to current zoning codes or ordinances, the applicant shall submit a statement detailing the conflict and explaining the need for the proposed facility alteration, together with copies of all relevant provisions of the pertinent zoning laws and applications which have been made for local zoning approval.

4. A completed copy of "Notice of Landing Area Proposal" or "Notice of Proposed Construction or Alteration" (FAA Forms 7480-1 or 7460-1 as it may be amended or superseded) at the same time it is forwarded to the federal authorities.

5. Detailed construction plans and specifications of the project and materials used therein and a construction schedule. These submissions are to be prepared by the applicant's engineer.

6. Detailed cost sheets for the material to be used in the project to include required as built quantities, material specifications, unit prices, and source vendors. These cost sheets are to be prepared by the applicant's engineer.

7. Completed application and agreement forms as provided by the Department.

8. Any other materials or information deemed necessary by the Department.

(d) For aid applications requesting equipment for crash/fire/rescue, search and rescue purposes, or aid for necessary airport engineering/planning/environmental studies, the applicant shall submit the completed forms provided by the Department and supply additional information as requested.

(e) The Commissioner may waive the requirement to submit specific maps, reports, or plans normally required for an aid application. The waivers may be granted only after a written request to the Executive Director and formal written response to the applicant by the Executive Director prior to submission of the completed application to the Division.

Amended by R.1985 d.719, effective February 3, 1986.
 See: 17 N.J.R. 2017(a), 18 N.J.R. 308(b).

(c) vii: "1,500" changed to "500".
 Amended by R.1994 d.372, effective July 18, 1994.
 See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

SUBCHAPTER 8. APPLICATION FOR EMERGENCY OR SPECIAL AID

16:56-8.1 Application for emergency or special State airport safety aid

(a) In the event that an applicant is unable to meet the deadlines of N.J.A.C. 16:56-9.1 and/or the process of N.J.A.C. 16:56-13.1, or requests alternate consideration of an application, an applicant may petition the Commissioner for emergency aid under the provisions of this chapter. An application filed for emergency aid may be processed in an expedited manner, but within the normal application procedures to the greatest degree possible.

(b) An applicant whose project would not qualify under the definitions of eligible projects under N.J.A.C. 16:56-3.1, of this chapter may petition the Commissioner for Special Aid. A project may be considered for funding provided it is determined consistent with those aviation purposes which the Department is empowered to undertake under "The New Jersey Airport Safety Act of 1983" (P.L. 1983, c.264), Title 6 and Title 27. An application for Special Aid will be processed within the normal application procedures process unless otherwise so determined necessary by the Commissioner.

(c) Funding for special projects may not be made for projects which do not further the purposes of air or flight safety, the protection of the health and safety of the flying public, or the improvement or public acquisition of the infrastructure of airport operational areas open to the public for the takeoff and landing of aircraft. The State, under this chapter, may not fund projects which have the primary purpose of generating revenue for a local sponsor. This

provision does not preclude, however, a local sponsor from charging equitable landing fees at an airport.

(d) At the discretion of the Commissioner, funding for special projects may be made conditional upon any conditions of audit, bonding, or any other condition deemed necessary to insure protection and proper use of State resources.

Amended by R.1994 d.372, effective July 18, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

SUBCHAPTER 9. DEADLINES

16:56-9.1 Deadlines for applications for State aid

(a) Applications for State aid are considered on an annual basis, based on information received under the Five-Year Capital Improvement Program (CIP). From the completed CIP's on file for any given year, projects will be selected for State aid participation.

(b) The deadline for submission of projects under the Five-Year Capital Improvement Program is the close of business on the 1st Monday of February.

(c) Any application for aid made under the provisions of this chapter shall be considered, at the time of filing, a document(s) of public record and shall be made available to persons wishing to inspect applications for State aid. Any portion of an application which is requested to be withheld from public inspection may not be considered as part of the application as filed. Should a required portion of an application be requested to be held as confidential, that application shall be deemed incomplete and may not be further considered for funding.

Amended by R.1994 d.372, effective July 18, 1994.
See: 26 N.J.R. 1607(a), 26 N.J.R. 2916(a).

SUBCHAPTER 10. PROJECT SELECTION PROCESS AND CRITERIA

16:56-10.1 Airport aid project selection process and criteria considered

(a) Following the closing date for the receipt of Capital Improvement Program (CIP) information, all proposed projects will be reviewed by the Department to determine their eligibility for funding. Proposed projects found to be eligible may be considered for funding. If, following the initial determination of eligibility, it is found that additional information is necessary, the applicant shall provide that additional information so as to allow further consideration of the project.

(b) The Executive Director shall review all Capital Improvement Program projects to be considered for funding and evaluate those proposed projects in respect to applicable criteria for project funding, available State resources, current priorities for development of the air transport infrastructure, and significant environmental or economic factors.

(c) Within 60 days of the closing date for Capital Improvement Program projects, the Executive Director shall forward to the Commissioner the list of projects considered for funding that year, and the list of those projects recommended by the Executive Director to be funded from all projects considered. The recommendations of the Executive Director are to be provided exclusively to the Commissioner for review. The Executive Director may not otherwise release recommendations as they do not constitute a public commitment for Department action.

(d) Within 30 days of receipt of the lists of projects considered and projects recommended for funding, the Commissioner may order the preparation of offers for State aid from the projects selected by the Department for State funding. The Commissioner may extend this 30 day period as he determines necessary to allow full project reviews.

(e) In extending an offer for State aid, the Commissioner may offer to fund a complete eligible project as proposed, or any percent or portion of a proposed project.

(f) An applicant who receives an offer for State aid has 14 days to respond to indicate acceptance of the offer for State aid. Acceptance of an offer for State aid is nonbinding on an applicant until a grant agreement has been signed and accepted by the State and the sponsor. Failure to respond will be considered as rejection of the State aid offer.

(g) The applicant shall have 60 days after accepting an offer for State aid to submit a completed application. Applicants may request an extension of this deadline from the Executive Director. Extensions may be granted if the applicant demonstrates that additional time is required to prepare and submit a complete application based on project complexity or pending administrative approvals. The Division will review the application for completeness. Grant agreements will be prepared by the Division for complete applications received for approved projects.

(h) In considering Capital Improvement Program projects or any application for aid, the Executive Director and Commissioner shall give weight and consideration to the following criteria:

1. The common public benefit to be derived from the improvement.
2. The effect(s) of the project on both the local airport, and the overall system of airports.