

CHAPTER 54

LICENSING OF AERONAUTICAL FACILITIES

Authority

N.J.S.A. 6:1-29, 6:1-43, 6:1-44, 27:1A-5 and 27:1A-6.

Source and Effective Date

R.2003 d.423, effective October 2, 2003.
See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).

Chapter Expiration Date

Chapter 54, Licensing of Aeronautical Facilities, expires on October 2, 2008.

Chapter Historical Note

Chapter 54, originally Licensing of Aeronautical Facilities, was filed and effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 54, Licensing of Aeronautical Facilities, was readopted as R.1986 d.146, effective April 7, 1986. See: 18 N.J.R. 403(a), 18 N.J.R. 998(b).

Administrative Correction. See: 19 N.J.R. 1240(a).

Pursuant to Executive Order No. 66(1978), Chapter 54, Licensing of Aeronautical Facilities, was readopted as R.1991 d.222, effective April 8, 1991. See: 23 N.J.R. 289(a), 23 N.J.R. 1421(a).

Chapter 54, Licensing of Aeronautical Facilities, was repealed and a new Chapter 54, Licensing of Aeronautical and Aerospace Facilities, was adopted as R.1993 d.348, effective July 6, 1993. See: 24 N.J.R. 2542(a), 25 N.J.R. 2916(c).

Pursuant to Executive Order No. 66(1978), Chapter 54, Licensing of Aeronautical and Aerospace Facilities, was readopted as R.1998 d.220, effective April 9, 1998. See: 30 N.J.R. 594(a), 30 N.J.R. 1629(a).

Chapter 54, Licensing of Aeronautical Facilities, was readopted as R.2003 d.423, effective October 2, 2003. As part of R.2003 d.423, effective November 3, 2003, Subchapter 7, Waivers and Exemptions, was recodified as Subchapter 10, Waivers and Exemptions; Subchapter 8, Liability and Penalty, was recodified as Subchapter 11, Liability and Penalty; Subchapter 9, Suspensions and Revocations, was recodified as Subchapter 12, Suspensions and Revocations; Subchapter 10, Powers, was recodified as Subchapter 13, Powers; and Subchapter 7, Ultralight Recreational Facilities, Subchapter 8, Airparks, and Subchapter 9, Aeronautical Facility Security, were adopted as new rules. See: Source and Effective Date. See, also, section annotations.

Chapter 54, Licensing of Aeronautical and Aerospace Facilities, was renamed Licensing of Aeronautical Facilities by administrative correction. See: 39 N.J.R. 1802(b).

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SUBCHAPTER 1. GENERAL PROVISIONS

16:54-1.1 Scope

(a) This chapter lists and defines those types of aeronautical facilities which must be licensed by the State of New Jersey and includes the ancillary operations thereon as hereinafter defined; outlines the procedures for obtaining license(s); specifies the licensing requirements which applicants must meet; specifies the minimum acceptable design standards for each type of facility; specifies certain operational standards for each type of facility; specifies the liability and penalty for failure to observe the requirements; and describes the procedure for requesting exemption from these rules.

(b) The rules specified in this chapter, if not in conformity with the laws, rules, and regulations concerning aeronautics set forth by the Federal Aviation Administration or the National Aeronautics and Space Administration, are subject to preemption. If not specifically preempted by Federal standards, the ultimate authority over the regulating and licensing of aeronautical activities and facilities in New Jersey resides with the Commissioner, as provided for in N.J.S.A. 6:1-29 et seq.

Amended by R.2003 d.423, effective November 3, 2003.
 See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).

In (a), in first sentence deleted "and aerospace" after "aeronautical".

16:54-1.2 Applicability

(a) The provisions of this chapter apply to the following types of aeronautical facilities:

1. Fixed wing aeronautical facility:
 - i. Airport—Public Use (land or water);
 - ii. Airport—Restricted Use (land or water); and
 - iii. Airport—Special Use (land or water);
2. Vertical flight aeronautical facility:
 - i. Heliport—Public Use;
 - ii. Helistop—Restricted Use;
 - iii. Helistop—Special Use;

- iv. Vertiport—Public Use;
 - v. Vertiport—Restricted Use; and
 - vi. Vertiport—Special Use;
3. Lighter than air aeronautical facility:
 - i. Balloonspot—Public Use;
 - ii. Balloonspot—Restricted Use;
 - iii. Balloonspot—Special Use;
 - iv. Airship Base—Public Use;
 - v. Airship Base—Restricted Use; and
 - vi. Airship Base—Special Use;
 4. Parachute drop zone aeronautical facility:
 - i. Parachute Drop Zone—Public Use;
 - ii. Parachute Drop Zone—Restricted Use; and
 - iii. Parachute Drop Zone—Special Use;
 5. Temporary aeronautical facilities:
 - i. Airship base;
 - ii. Balloonspot;
 - iii. Helistop;
 - iv. Landing Strip;
 - v. Parachute Drop Zone;
 - vi. Vertiport; and
 - vii. Other.

(b) Effective 180 days after the effective date of this chapter, all license applications and renewal applications shall comply fully with the requirements of N.J.A.C. 16:54-3.2.

(c) Existing aeronautical facilities which do not meet specific physical dimensional criteria or requirements of these revised regulations shall have two years to come into compliance. During that period, the licensee shall either make provisions to comply or petition for an exemption from the criteria as provided for in N.J.A.C. 16:54-7.

(d) Existing aeronautical facilities which do not meet the requirements of these regulations, other than those described in N.J.A.C. 16:54-1.2(b) or (c) shall have one year to come into compliance. During that period, the licensee shall make provisions to comply with the requirement or to petition for an exemption as provided for in N.J.A.C. 16:54-7.

Amended by R.2003 d.423, effective November 3, 2003.
 See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).

In (a), substituted "Balloonspot" for "Balloonport" throughout.

calendar days from the applicant’s receipt of this Notice of Denial of Permit Application that the applicant is appealing to OAL.

Recodified from N.J.A.C. 16:54-9.3 by R.2003 d.423, effective November 3, 2003.
See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).

SUBCHAPTER 13. POWERS

16:54-13.1 Authority

Licensing requirements shall not be construed as limiting in any way the power of the Commissioner in regulating the operation of any aeronautical facilities. Decisions regarding denial, issuance, renewal, suspension, or revocation of licenses are within the purview of, and shall ultimately be determined by, the Commissioner.

Recodified from N.J.A.C. 16:54-10.1 by R.2003 d.423, effective November 3, 2003.
See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).

Case Notes

Zoning adjustment board’s authority to regulate landowner’s proposed use of his property as private airstrip was not preempted by regulation affording Commissioner of Transportation authority to regulate and supervise aeronautical facilities. *Tanis v. Township of Hampton*, 704 A.2d 62, 306 N.J.Super. 588 (A.D. 1997).

APPENDIX A

PUBLIC NOTICE

Notice of Proposed Aeronautical Facility Licensing

ALL INTERESTED PERSONS are hereby advised that the Division of Aeronautics, of the New Jersey Department of Transportation, has received an application from _____ for a license to establish a _____ at _____.

Accordingly, the Division of Aeronautics invites written comments or objections regarding this proposed license. All comments or objections must address the issue of the effect of the proposed license upon the public health and safety.

Upon receipt of written comments or objections, and a determination by the Division of Aeronautics that the proposed licensing is a “contested case,” as defined by N.J.S.A. 52:14B-1 et seq., this matter may be scheduled for a public hearing.

The above-named application and all related documents are available for public inspection by appointment between the hours of 9:00 A.M. and 4:00 P.M. at the Division of Aeronautics, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey. Telephone (609) 530-2908.

Any interested persons may submit questions or comments, in writing, no later than 30 days from today.

All submissions regarding this matter should be directed to:

Office of Community Relations
New Jersey Department of Transportation
1035 Parkway Avenue, PO Box 600
Trenton, New Jersey 08625-0600

Amended by R.2003 d.423, effective November 3, 2003.
See: 35 N.J.R. 1981(a), 35 N.J.R. 5127(a).