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CHAPTER 55. LICENSING OF AERONAUTICAL ACTIVITIES

Chapter Authority:

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

Chapter Expiration Date:

Expires on July 12, 2023.

SUBCHAPTER 1. GENERAL PROVISIONS

16:55-1.1 Purpose

This chapter lists aeronautical activities required to be licensed in the State of New Jersey; outlines the procedures for obtaining license(s); specifies the requirements that licensees must observe; specifies the liability for failure to observe the requirements; and describes the procedure for requesting exemption.

16:55-1.2 Scope

No person offering or rendering aeronautical services, or acting as a fixed base operator as defined in Title 6 of the New Jersey Statutes, whether or not they are required to be licensed under this chapter, is exempted from the requirement to comply with the legitimate rules, regulations, contractual requirements, or other terms of use or access applicable to any licensed aeronautical facility.

16:55-1.3 Applicability

- (a) The licensing provisions of this chapter apply to the following aeronautical activities:
1. Aerial advertising;
 2. Aerial application;
 3. Sport parachute center.

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16:55-1.4 (Reserved)

16:55-1.5 (Reserved)

16:55-1.6 (Reserved)

16:55-1.7 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:55-2.1 Definitions

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

"Aeronautical activity" means any of the following services in which any person engages in giving, offering to give, advertising, representing or holding himself out as giving to the public with or without compensation or other reward (unless otherwise indicated):

1. "Aerial advertising": Airborne display of any type of advertising (banner, electric lights, smoke);
2. "Aerial application": Application by aircraft of liquid or solid sprays for the purpose of insect, plant, animal or fungus control, fertilization or seeding;
3. "Sport parachute center": An operation organized by an individual, club or business entity to foster, control, supervise and regulate sport parachuting of person(s) sponsored or trained by said individual, club or business entity.

"Bureau" means the Bureau of Aeronautics in the New Jersey Department of Transportation.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation or such person as the Commissioner may designate, when legally permissible.

"Director" means the Director of the Division of Multimodal Services.

"Drop zone" means an area of defined dimensions, on the earth's surface, designated for the landing of sport parachutists.

"FAA" means the Federal Aviation Administration.

"Sport parachuting" means the act of descending from an aircraft to the earth's surface by means of a parachute, or similar device, except when such descent is made under emergency conditions for the purpose of saving life.

"Sport parachutist" means anyone engaging in or about to engage in sport parachuting.

"USPA" means United State Parachute Association. Information, manuals, and circulars can be found at www.uspa.org.

SUBCHAPTER 3. LICENSING

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16:55-3.1 General requirements

(a) All persons engaged in one or more aeronautical activities listed in this chapter shall:

1. Submit an application for an Aeronautical Activity License, Form DA-1042 or a Special Landing Strip License, Form DA-24 to the Bureau of Aeronautics. Applications can be obtained by phone at (609) 530-2900, by mail at New Jersey Department of Transportation, Bureau of Aeronautics, PO Box 600, Trenton, NJ 08625, or on the Department's website at: www.nj.gov/transportation/airwater/aviation;

2. Maintain a principal business office, in New Jersey, with a mailing address in the name to be shown on the license at which adequate and suitable facilities and equipment are available to properly maintain required files and effectively operate the business;

3. Be prepared to provide relevant data and information as requested by the Bureau of Aeronautics at a public hearing or special hearing in regard to their license and operation of the aeronautical activity; and

4. Display license(s) at a conspicuous place at the principal business office readily accessible to aeronautical inspectors and the aviation public. If the principal business office is not located at the facility from which the aeronautical activity is being carried out, the licensee shall retain a copy of the license in his or her possession while carrying out the aeronautical activity and make it available for inspection to State inspectors, law enforcement personnel, and the aviation public, upon request.

16:55-3.2 Specific requirements

(a) In addition to complying with the general requirements listed in N.J.A.C. 16:55-3.1, all persons engaged in one or more of the aeronautical activities listed in this chapter shall comply with the applicable specific requirements listed below. Where any requirement listed below calls for the maintenance of any data or other information, no particular method of recordkeeping is specified. No change in the system of records customarily kept by the person concerned is required, so long as the records supply an adequate basis for examination.

1. Aerial advertising:

i. Own or have arrangements for use of a minimum of one currently Federally certificated and airworthy aircraft equipped for aerial advertising operations;

ii. Provide, when requested, aircraft logbook for inspection containing certified notations of the installation of the particular equipment required for the type of aerial advertising offered. Such equipment and installation shall be FAA approved;

iii. Utilize pilots who are federally certified as commercial or airline transport pilots and properly rated for the aircraft used;

iv. Provide names, addresses, ratings and certificate numbers of pilots employed in the operation;

v. Ensure that only essential crew members are embarked while aircraft are being utilized for aerial advertising (this restriction does not apply to balloons or rigid airships);

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vi. Provide copy of current FAA waiver (if applicable);

vii. Maintain records of all aerial advertising flights made, which shall be retained for 12 months. These records shall contain the following information including, but not limited to:

- (1) Aircraft "N" number;
- (2) Date of flight;
- (3) Takeoff and landing time;
- (4) Name of pilot; and
- (5) Flight of coverage area;

viii. For banner towing, submit with the license application, a sketch and scaled aerial photograph of the proposed banner pickup and drop area(s). If the proposed area(s) is located on an airport, this sketch must include the regular airport traffic pattern and the banner tow pattern, if different from the regular airport traffic pattern. If the proposed area(s) is not located on an airport, submit a sketch and scaled aerial photograph of the proposed banner pickup and drop off area(s) and depict any obstructions within 500 feet of these areas. The location may be inspected by the Bureau and may require FAA approval to determine if the area(s) are suitable for these operations. Written approval of the location by the facility management, the property owner or lessee, and the controlling municipal authority must appear on the sketch or the scaled aerial photograph or by separate letter; and

ix. Ensure that each pilot prior to flying banner towing aircraft is completely briefed and familiar with the approved banner pickup and drop area(s) and patterns.

2. Aerial application:

i. Own or have arrangements for use of a minimum of one currently Federally certified and airworthy aircraft equipped for aerial application of sprays, seeds or fertilizer;

ii. Provide aircraft logbook for inspection which contains certificated notations of the particular equipment required for the type of aerial application offered. Such equipment and installation shall be FAA approved;

iii. Utilize pilots who are Federally certified as commercial or airline transport pilots and properly rated for the aircraft used, as required by FAR Part 137;

iv. Provide names, addresses, ratings and certificate numbers of pilots employed in the operation;

v. Ensure that only essential crew members are embarked while aircraft are being utilized for aerial application;

vi. As required, provide with application one copy each of FAA waiver, agricultural aircraft operator certificate (14 CFR Part 137), and New Jersey Department of Environmental Protection certification of pesticide applicators (N.J.A.C. 7:30-3.1);

vii. Maintain record of all aerial application flights, which shall be readily available for inspection. File of these logs shall be retained for 12 months. This record shall provide the following information including, but not limited to:

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- (1) Aircraft "N" number;
- (2) Date of flight;
- (3) Name of pilot;
- (4) Location of aerial application by municipality or township;
- (5) Type of material applied.

3. Sport parachute center:

i. No person(s) shall engage in sport parachuting unless under the control and supervision of a fixed base operator licensed sport parachute center and drop zone and operating in accordance with the procedure and rules contained in this chapter and in compliance with Federal requirements found in 14 CFR Parts 61, 65, 91, and 105; FAA AC 105-2E; and the USPA Sky Divers Information Manual. These requirements shall apply to all applicable licensees, any sport parachutist, and any crew member of an aircraft permitting a parachute jump to be made from an aircraft.

ii. All injuries caused by sport parachuting, which require treatment or examination by a physician, or any property damage or injury to persons or property shall immediately be reported via telephone to the Bureau, during normal working hours, at (609) 530-2900 or the FAA Communication Center at (718) 553-3100, followed by a written report within seven calendar days giving full particulars. All fatalities caused by sport parachuting shall be reported immediately by telephone to the Bureau at (609) 530-2900 or the New Jersey State Police at (609) 882-2000, giving all details available. A written report giving full particulars shall be submitted within 48 hours to New Jersey Department of Transportation, Bureau of Aeronautics, PO Box 600, Trenton, NJ 08625.

iii. Drop zones shall be kept clear of all nonessential equipment. No automobiles other than control, first aid and recovery or emergency vehicles are to be in the drop zone unless all jumping has been halted.

iv. Show on the application compliance with all applicable drop zone licensing provisions of N.J.A.C. 16:54;

v. List names, addresses, ratings and/or classification and certificate number(s) of all certified personnel employed in this operation;

vi. Provide suitable ground facilities that will provide:

- (1) Classroom area;
- (2) Storage room for parachutes and personal gear;
- (3) Necessary aircraft mockups;
- (4) Parachute repacking area;
- (5) Briefings and final gear check area;

vii. Maintain records of all parachute jumps made, by dates and classification. Such records shall be readily available for inspection and shall be kept for a minimum of 12 months.

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SUBCHAPTER 4. WAIVERS

16:55-4.1 Petitions

(a) Any person who believes himself or herself to be adversely affected by any licensing rule of this chapter, and who believes that exceptional circumstances warrant a waiver of that rule, may petition the Department.

(b) The petition, which must be verified, must be filed with the Manager of Aeronautics. The manager will forward the petition for waiver along with his or her recommendations to the Commissioner within 15 working days of receipt of petition. The time for submission may be further extended, for good cause, by the Commissioner.

(c) The Commissioner may grant or deny any petition. The petitioner will be notified, in writing, of the decision.

SUBCHAPTER 5. VIOLATIONS

16:55-5.1 Violations, generally

Any license issued pursuant to the provisions set forth in this chapter may be modified, suspended, or revoked in the interest of public safety, or as a result of established violations of any of the provisions of Title 6 of the New Jersey Statutes Annotated or any of the provisions of this chapter, and may further subject the violator to the penalty provisions of Title 6 of the New Jersey Statutes Annotated.

16:55-5.2 Misrepresentation or false statement

(a) Any person who makes a misrepresentation or false statement in any application, interview, or submission of information to the Bureau of Aeronautics, shall be considered to be in violation of the provisions of this chapter and Title 6 of the New Jersey Statutes Annotated.

(b) Any application that is found to contain misrepresentations or false statements shall be rejected, and any license issued as a result of that application shall be suspended, unless it is determined that public health, safety, or welfare requires that the aeronautical facility license should not be suspended pending submission of a corrected application. If corrections to these applications are not made within 30 days, the license may be suspended or revoked.

16:55-5.3 Suspensions

(a) In the interest of public safety or the safety of those participating in aeronautical activities, the Director of Multimodal Services is authorized to suspend any license issued pursuant to this chapter for a period not to exceed 90 days.

(b) Any aeronautical inspector or other personnel identified in N.J.A.C. 16:60-1.3 as law enforcement officers may immediately suspend an aeronautical activities license when they deem it necessary to ensure the safety of the general public or those participating in the activities.

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(c) The Bureau of Aeronautics shall notify the licensee of the suspension in writing.

(d) Aeronautical activities licenses that have been suspended shall correct the cause of the suspension within the suspension period. Licensees that have not made corrections during the suspension period shall be presented to the Director of Multimodal Services, who may extend the suspension or may begin action to revoke the license.

(e) The Director of Multimodal Services may hold a conference concerning any license suspension action, either when requested by the licensee or by the Department.

(f) Licensees may appeal suspensions, pursuant to N.J.A.C. 16:55-6.1.

16:55-5.4 Revocations

(a) The Director of Multimodal Services is authorized to revoke any aeronautical activities license when it is determined that it is in the best interest of public safety or the safety of those participating in aeronautical activities.

(b) Licensees shall be notified by the Bureau of Aeronautics, in writing, of the Department's pending revocation.

(c) Individuals who have had their licenses revoked shall complete a new application package in order to be considered for reinstatement.

(d) Licensees may appeal a revocation pursuant to N.J.A.C. 16:55-6.

SUBCHAPTER 6. INFORMAL HEARINGS AND CONTESTED CASES

16:55-6.1 Informal hearings

(a) Licensees or applicants may request an informal hearing with the Director regarding any of the following actions: a denial of a petition for exemption, a license suspension, a license revocation, or a denial of an application for a license.

(b) Requests for an informal hearing shall be made in writing to the Director within 20 calendar days of receipt of the notice related to any matters described in (a) above. Requests shall be addressed to:

Director, Division of Multimodal Services
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600

(c) If the Director determines that an informal hearing is appropriate, it shall be scheduled within 30 calendar days of receipt of the request.

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(d) If the Director determines that an informal hearing is not appropriate, the applicant or licensee shall be informed in writing of the denial of the request for a hearing.

(e) Informal hearings will be heard by the Director. The Director shall hear and review all evidence presented. Any records or documents produced or referred to by the licensee or applicant in an informal hearing shall be provided by the licensee or applicant to the Director at no cost.

(f) The Director shall, within 30 calendar days of the close of the informal hearing, provide the licensee or applicant with a written decision to rescind, modify, or retain the original action.

(g) The Director may, in instances where public exigency exists or where there is potential for substantial savings to the Department, change the time frames or any other requirements provided for in this section. In these instances, the Department shall document, for the record, the rationale for the change and give adequate notice to the licensee or applicant.

(h) If the licensee or applicant intends to challenge the decision in (f) above, an intent to appeal letter must be sent to the Director within 60 calendar days of the close of the hearing. The proceeding shall then be handled as a contested case. The intent to appeal letter shall be addressed to:

Director, Division of Multimodal Services
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600

16:55-6.2 Contested cases and uncontested cases

(a) The Department shall refer each contested case to the Office of Administrative Law for a hearing pursuant to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq. The contested case shall be handled according to Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Within 45 calendar days of the close of the hearing, the administrative law judge (ALJ) shall submit a written initial decision to the Commissioner and shall serve the parties of record with an indication of the date of receipt by the Commissioner.

(c) Within 13 calendar days from the date the ALJ's initial decision was mailed to the parties, any party may submit written exceptions to the Commissioner. No further evidence or submissions will be allowed. A copy of the exceptions must also be served on the other parties.

(d) Within five calendar days of receipt of exceptions, any party may submit a reply to the Commissioner and must also serve the other parties. Replies may include submissions in support of the initial decision.

(e) Within 45 calendar days of receipt of the initial decision, the Commissioner shall issue a written decision which adopts, modifies, or rejects the initial decision. The decision shall be considered a final agency action.

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(f) The Department may also seek, in its sole discretion, to refer any uncontested matters to the Office of Administrative Law for a hearing, pursuant to N.J.A.C. 1:1-2.