

2150 Office of Aeronautics

2151 Delaware Airport Licensing Regulation

1.0 Purpose

- 1.1 The purpose of this regulation is to implement the State of Delaware Airport Licensing Program authorized by State law, pursuant to Chapter 1, Title 2, Sections 162 and 163, **Delaware Code**, as amended, in order to provide for a safe statewide aviation program and to provide for the safety of the states' citizens. This Regulation sets forth the purpose, policies, criteria, and procedures for the inspection, licensing, and the revocation of licenses for public use airports or heliports within the State of Delaware. The pertinent sections of the Delaware Code are:
- Chapter I, Title 2, Section 162 which states that:
 - “The Department, through the Office of Aeronautics may approve and license airports and helicopter landing sites, or other air navigation facilities, in accordance with regulations it adopts pertaining to such approval and licensure. Licenses granted under this section shall be renewed annually in conjunction with the Federal Aviation Administration sponsored airport survey program.”
 - Chapter 1, Title 2, Section 163 which states that:
 - “The Department, through the Office of Aeronautics, may suspend or revoke any certificate of approval or license issued by it when it determines that an airport, restricted landing area, or other navigation facility is not being maintained or used in accordance with the provisions of this chapter and the rules and regulations lawfully promulgated by it pursuant thereto.”
- 1.2 Aviation safety is of paramount importance in Delaware and depends in great measure upon flight safety and the availability of airports in the State, both of which are regulated by the FAA with the assistance of the Delaware Office of Aeronautics.
- 1.3 Safety standards are an integral part of the licensing program for Delaware Airports. Annual airport inspections conducted in conjunction with the FAA Form 5010 Airport Master Record Review for licensing can identify existing and potential safety problems and recommend mitigation measures. Inspections are a necessary and integral part of the licensing process and shall be performed by or at the direction of the Office of Aeronautics.

2.0 Definitions

The following definitions shall apply for the Airport Licensing Regulation:

“**Airport**” means any area of land or water which is designated by the FAA for the landing and takeoff of aircraft, and all appurtenant areas used or suitable for airport buildings, other airport facilities and all appurtenant rights-of-way. For purpose of these Regulations, “Airport” shall include all navigational facilities as defined herein.

“**Airport Approach Area**” the area in and around an airport or heliport, as defined by Federal Aviation Regulations (FAR) Part 77 - **Objects Affecting Navigable Airspace**. The approach surfaces associated with the airport approach area are longitudinally centered on the extended runway centerline and extend outward and upward. These surfaces can differ by type of airport and runway characteristic and therefore must be determined using specific FAR Part 77 criteria.

“**Annual License Renewal**” means once in each calendar year.

“**Displaced Threshold**” The threshold of a runway is the beginning of that portion of the runway available and suitable for the landing of airplanes. A displaced threshold is one that is located at a point on the runway other than at the runway end. It is an artificial threshold for a runway which shortens the landing length of the runway in the direction of the displacement. The portion of runway behind a displaced threshold may be available for takeoffs in either direction and landings from the opposite direction.

“**Hazard to Air Navigation**” Hazards to Air Navigation are severe obstructions to air navigation, classified as such by an FAA study under FAR Part 77.

“Heliport” means any helicopter landing area or any area of land or water which is designated by the FAA for the landing and takeoff of helicopters, and all appurtenant areas used or suitable for heliport buildings other heliport facilities and all appurtenant rights-of-way.

“Licensing Criteria” the parameters defined in this regulation that are used to determine whether or not an airport is to be licensed.

“Obstruction to Air Navigation” any penetration of approach or transitional surfaces by an object or structure at an airport or heliport, as defined by FAR Part 77. Other objects or structures can be obstructions to air navigation outside the immediate vicinity of an airport if they encroach on navigable airspace as defined by FAR Part 77.

“Office of Aeronautics” Subdivision of the Department of Transportation that is responsible for aviation matters.

“Temporary Waiver” an intentional relinquishing of a known right or claim for a specific period of time, after careful consideration of all relevant factors.

“Transitional Surface” the area in and around an airport or heliport, as defined by FAR Part 77. The transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended.

3.0 Licensing and Grandfather Rights

Each public use airport or heliport operated in Delaware shall be licensed, operated, and maintained in accordance with this Licensing Program, as described herein this Regulation. Under previous legislation, grandfather rights for airport licenses extended to airports and restricted landing areas which were being operated on or before April 24, 1945. Under the new legislation, no grandfather rights are given or implied. Thus, each public use airport or heliport is subject to the licensing regulation adopted by the Department.

4.0 Aviation Facilities

4.1 Under the new law, all public-use airports and heliports shall be licensed to operate in Delaware. Existing public-use airports and heliports, as of the date of adoption of this Licensing Regulation are the following:

- 4.1.1 Chandelle Estates
- 4.1.2 Delaware Airpark
- 4.1.3 Henderson Airport
- 4.1.4 Jenkins Airport
- 4.1.5 Laurel Airport
- 4.1.6 New Castle County Airport
- 4.1.7 Smyrna Airport
- 4.1.8 Summit Airport
- 4.1.9 Sussex County Airport
- 4.1.10 Chorman Airport
- 4.1.11 DeIDOT Helipad

5.0 Licensing Process

5.1 The licensing process, as envisioned in this Regulation, requires that the Department inspect each existing public-use airport in the State by a representative of the Office of Aeronautics. All existing public-use airports shall automatically be included in the process. The inspections shall be conducted using the methods described in this section. Successful completion of the licensing process shall result in the issuance of an operating license for an airport. New public-use airports shall request a license in writing from the Delaware Department of Transportation, Office of Aeronautics. To adequately describe these steps, this section consists of the following: licensing criteria, annual licensing program, and new airport licensing process. Each of these steps is described below:

- 5.1.1 License Criteria. The Department hereby incorporates by reference FAR Part 77; FAA Advisory Circular 150/5300-13, Airport Design; and such other federal or state regulations as may be referred to herein. Licensing criteria have been developed for two specific areas of airport or heliport facility operation. The first involves the requirement of each public use airport to obtain and carry minimum levels of liability and property insurance. The second involves the requirement for displaced thresholds at runways obstructed by existing roadways, railways, or navigable waterways. In order for a public use airport or heliport to be licensed in Delaware, it shall comply with all standards and regulations pertinent to these two areas.
- 5.1.2 Minimum Insurance Requirements. As a part of this new regulation, it is required that public use airports carry a minimum of one million dollars (\$1,000,000) in liability insurance covering bodily injury and property damage liability in any one accident, along with fifty-thousand dollars (\$50,000) coverage for property damage for each accident. Certificates of insurance, issued by an insurance company licensed to write such insurance in the State of Delaware, shall be filed annually with the Department of Transportation, Office of Aeronautics, as a part of the licensing procedure. The Department shall be notified of any insurance coverage lapses at public use airports in Delaware.
- 5.1.3 Displaced Threshold Requirements. Delaware public use airports and heliports should be physically suitable for aviation, in accordance with the aviation purpose intended and operated in a safe manner. Runways that are obstructed, as defined in FAR Part 77, either by highways, railways, or navigable waterways shall have the thresholds of the impacted runways displaced by the appropriate distance. A displaced threshold has been defined as an artificial threshold for a runway which shortens the landing length of the runway in the direction of the displacement. The portion of runway behind a displaced threshold may be available for takeoffs in either direction and landings from the opposite direction. The displacement is caused by the need to provide clearance over an obstruction to air navigation, based upon an imaginary approach slope, which is defined in FAR Part 77.
- 5.2 For a public roadway, a clearance of 15 vertical feet is needed; for an Interstate Highway a clearance of 17 vertical feet is needed; for a railway, a clearance of 23 vertical feet is required; and for a navigable waterway, a clearance equal to the highest mobile craft to transverse the waterway is needed. For example, if the imaginary surface has a 20:1 slope, a 15 vertical foot clearance at the end of a runway will require 300 linear feet of displacement.
 - 5.2.1 [Appropriate displacement markings shall be painted on paved surfaces in accordance with FAA guidelines and shall be installed as in-ground flush markers or other suitable FAA approved markings on turf strips.]
 - 5.2.2 [Appropriate displacement marking shall be painted on paved surfaces in accordance with FAA guidelines and shall be installed as in-ground flush markers or other suitable FAA approved markings on turf strips.]
 - 5.2.3 Annual Licensing Program. Each of the airports listed in Section 4 of this Regulation are subject to annual licensure by DelDOT through the Office of Aeronautics. To carry out this program, the Office of Aeronautics shall implement the following steps:
 - 5.2.3.1 Inspections. Beginning in 1998, the Office of Aeronautics shall conduct annual on-site inspections of each public-use airport in Delaware, in accordance with the criteria set forth in this Regulation. Existing public-use airports need not apply for a new license, but shall automatically be included in the licensing process. Inspections of each airport shall be conducted by personnel from the Office of Aeronautics. The Office of Aeronautics reserves the right to conduct inspections at its convenience and is not limited in the number of inspections that it may conduct at an airport during any one year period.
 - 5.2.3.2 Inspection Period. While the inspections for licensure do not need to be conducted within an exact 12 month period, they do have to occur at least once in each calendar year.
 - 5.2.4 Validity Period. Licenses issued during 1998 will be valid until December 31, 1999; in subsequent years, licenses issued will be valid until the end of the following calendar year.

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5.2.5 New Airports. In the event that a new public use airport is developed, or a private use airport desires to become a public use facility, the airport owner shall submit a request for a license in writing to the Office of Aeronautics, along with a copy of the FAA airspace approval for the airport. Within 30 days of the receipt of the written request, the Office of Aeronautics shall inspect the facility using criteria specified in this Regulation. From that inspection, the Office shall either issue a license or cite the conditions requiring correction before a license can be issued.

6.0 Temporary Waivers

6.1 The licensing process should be one that encourages safety while at the same time does not place an undo burden upon the existing public use airports or heliports in the State. If a violation of this regulation occurs, the airport or heliport in question may attempt to rectify the situation, but in doing so, may require additional time to comply.

6.2 In cases where the correction of a regulation violation requires more than 10 days, a temporary waiver may be issued by the Office of Aeronautics permitting the delay. The temporary waiver shall specify a definite time period for correction of the condition. The process for issuing a temporary waiver is as follows:

6.2.1 Violation Cited. In the event that an airport cannot show proof of insurance, or has not displaced a threshold subject to the requirements of this regulation, the Delaware Department of Transportation, through its Office of Aeronautics shall cite the airport for the violation. In the citation, the airport owner shall have 10 days to correct the violation.

6.2.2 Waiver Request. If the cited airport owner believes that there are mitigating circumstances that prevent compliance with these regulations within the 10 day period, he or she may request a waiver in writing from the Department through its Office of Aeronautics. The waiver request should state the mitigating circumstances and the timeframe requested for compliance.

6.2.3 Waiver Terms. The Department may grant a waiver to the requesting airport owner/operator after consideration of the mitigating circumstances preventing compliance and the time needed to comply. The waiver issued by the Department through its Office of Aeronautics shall state the timeframe for compliance.

6.2.4 Waiver Implementation. The Office of Aeronautics shall approve or disapprove the request for waiver within the 10 day normal compliance period. The decision shall be delivered in writing to the airport owner requesting the waiver. If the waiver is granted, the temporary nature of the waiver shall require that the Office of Aeronautics revisit the airport at the end of the temporary extension of the compliance period to determine if the airport is in compliance. If the airport is in compliance, a license shall be issued. If the airport is not in compliance, Section 7 of this regulation shall be implemented.

7.0 License Revocation

7.1 Under certain circumstances, the license to operate a public use airport or heliport in Delaware can be revoked. Revocation of the license for a public use airport or heliport shall result in either: 1) the immediate closure of the airport or heliport, or 2) the change in designation from public use to private use airport or heliport. The circumstances leading to revocation are listed below.

7.1.1 Refusal or Failure to Comply with this Regulation. If a public use airport or heliport operator refuses or fails to comply with the terms and conditions of licensure contained in this regulation, that airport or heliport is subject to license revocation. Conditions of licensure include:

- Displacement of a runway threshold when obstructed by highways, railways, or waterways.
- Valid insurance coverage in the amounts and types stated in this regulation.

7.1.2 License Revocation. Airport licenses are to be revoked upon reaching the following trigger points:

7.1.2.1 Upon the 11th day after a citation was given to an airport owner, given that no temporary waiver was requested by that airport owner.

7.1.2.2 Upon the expiration of temporary waivers.

7.1.3 Airport Closure/Private Use Designation. No public use airport shall operate in Delaware without a license issued by the Department. Therefore, after license revocation, an airport shall either close or be redesignated as private use and be deleted from the list in the Department of Commerce's Airport/Facility Directory (AFD).

APPENDIX A

License Inspection Form

1 Airport Name: _____

Inspector: _____ Date: _____

Displaced Threshold Requirements

3. If yes, which runway(s) are impacted: _____

Sketch below:

4. Discussed with Airport Manager? _____

5. Timeframe for correction? _____

6. Waiver required/issued? (If yes, please attach) _____

Insurance Certificate:

Requested Supplied (attach copy of certificate)

Comments:

