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DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-11
Hawaii Administrative Rules
October 23, 2000

SUMMARY

1. §§19-11-4 and 19-11-12 are amended.
2. Chapter 19-11 is compiled.

HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 11

AIRPORT SITE APPROVAL, AIRPORT LICENSING,
AND AIRPORT LICENSE RENEWAL

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§19-11-3	Application for airport site approval
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Historical note. This chapter is based substantially on the airport site approval, airport licensing and airport licensing renewal regulations. [Eff 5/11/70; R 6/12/81]

§19-11-1 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

"Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used,

or intended for use, for airport buildings or other airport facilities or rights-of-way, including approaches, together with all airport buildings and facilities located thereon.

"Airport hazard" means any structure or tree which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport, or any use of land which creates a dangerous condition, including the placement of strong lights which blind pilots during such operations.

"Airport purpose" means the declaration of an airport as either a private, public, or quasi-public airport, as defined in this section, by the owner of the airport.

"Character or type of airport" means the structural nature of an airport's design as indicated by an instrument runway or a noninstrument runway upon it, irrespective of whether the airport is a public, private, or quasi-public airport.

"Department" means the department of transportation of the State of Hawaii.

"Director" means the director of the department of transportation, or his authorized representative.

"Instrument runway" means a runway equipped or designated to be equipped with a precision electronic landing aid, such as instrument landing system (ILS), ground controlled approach (GCA), or precision approach radar (PAR).

"Noninstrument runway" means a runway other than an instrument runway.

"Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over the State or upon any airport within the State.

"Person" means any individual, firm, partnership, corporation, company, unincorporated association, joint stock association, or any trustee, receiver, assignee, or other similar representative thereof; or the State or any of its political subdivisions, or agencies thereof.

"Private airport" means an airport owned or operated by a person and not open to the public.

"Public airport" means an airport owned or operated by the state, municipality, county, or other political subdivision or public corporation of the state, and opened for the use of the general public.

"Quasi-public airport" means an airport owned or operated by a person and open to the public in part or in whole as evidenced by its use by either aircraft operators or paying passengers carried in privately owned aircraft operated for hire.

"Rules" means the rules set forth under this chapter.

"Runway" means the surface of an airport used for the landing and taking-off of aircraft.

"State" means the State of Hawaii. [Eff 6/12/81; am 3/28/83; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-11-2 Airport site approvals. All proposed airport sites shall be approved by the director prior to the construction or operation of an airport thereon. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-3 Application for airport site approval.

(a) Any person desiring or planning to construct, establish, or operate a proposed airport shall, prior to its construction or operation, make application to the director for his approval of the site.

(b) Each application for the approval of an airport site shall indicate the purpose for which approval is desired; that is, whether it will be a private airport, a public airport, or a quasi-public airport; and the character or type of airport proposed. It shall further state that:

- (1) The site is adequate for the character or type of airport proposed and has no substantial airport hazard upon it or within its vicinity. As to any other airport hazards thereupon or therein, the application shall concisely state their location, nature, and degree.
- (2) The use of land within any zone established pursuant to chapter 11 under this title and applicable to the character or type of airport proposed or within its vicinity shall conform to the use restrictions prescribed by that chapter.
- (3) The runways of the proposed airport shall conform to the minimum standards of safety required for their construction and maintenance

as may be applicable to the character or type of airport proposed.

- (4) The operation, flight, and maneuvering of aircraft approaching and taking off from the proposed airport can conform to the minimum standards of safety required therefor by the general operating and flight rules prescribed by part 91 of the Federal Aviation Regulations.
- (5) Safe and compatible air traffic patterns can be or have been worked out for the proposed airport and all existing airports and approved sites in its vicinity.
- (6) Notice of intent has been given to the Federal Aviation Administration at its regional office in Honolulu, Hawaii, and a determination by that agency has been made on the notice pursuant to part 157 of the Federal Aviation Regulations. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-4 Certificate of approval. (a) Issuance of certificate. The director, if satisfied on inspection that the proposed airport meets the standards set forth in §19-11-3, shall issue a certificate granting approval thereof with reasonable dispatch and without charge to the applicant. The director may note on the face of the certificate that the approval is subject to any reasonable conditions he may deem necessary to effectuate the purpose of these rules.

(b) Effective limits. The certificate of approval shall remain in effect for a period of one year or until a license for an airport on the approved airport site has been issued pursuant to §19-11-5, whichever shall occur first.

(c) Revocation. The director may, after notice and opportunity for a hearing to a holder of a certificate of approval, revoke or cancel the certificate when he determines that:

- (1) The approved airport site has been abandoned; or
- (2) There has been a failure, within the time prescribed in the certificate, to develop the site as an airport or to comply with the conditions noted on the face of the certificate; or

- (3) Because of a change in the physical or legal conditions or circumstances, the site is no longer usable for the aeronautical purposes for which the approval was granted.
 [Eff 6/12/81; am and comp NOV 27 2000]
 (Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-5 Airport licenses and renewals. All airports excepting those owned and operated by the United States, the State, or those hereinafter excluded, shall be licensed and their licenses renewed annually upon payment of required airport license and renewal fees.
 [Eff 6/12/81; comp NOV 27 2000]
 (Auth: HRS §261-12) (Imp: HRS §261-16)

- §19-11-6 Application for original airport license.
- (a) Any holder of a certificate of approval issued pursuant to these rules may, while it remains in effect, make, and any operator of a presently operated airport not yet licensed under this section shall make, an application for an original license to operate the airport and shall pay the sum of \$50 as the required airport license fee.
- (b) Each application for an original airport license shall indicate the purpose for which the airport is being or to be operated and the character or type of airport concerned. It shall further state that:
- (1) The applicant's certificate of site approval for the airport remains in effect.
 - (2) The airport has no substantial airport hazard upon it or within its vicinity. As to any other airport hazards thereupon or therein, the application shall concisely state their location, nature and degree.
 - (3) The use of land within any zone established pursuant to chapter 11 under this title and applicable to the character or type of airport in question or within its vicinity conforms to the use restrictions prescribed by chapter 11 under this title.
 - (4) The runways of the airport conform to the minimum standards of safety required for their construction and maintenance, as may be applicable to the character or type of the airport in question.

- (5) The operation, flight and maneuvering of aircraft approaching and taking off from the airport can conform to the minimum standards of safety required therefor by the general operating and flight rules prescribed by part 91 of the Federal Aviation Regulations.
- (6) Safe and compatible air traffic patterns have been worked out for the airport and for all existing airports and approved airport sites in its vicinity.
[Eff 6/12/81; am 3/28/83; comp NOV 27 2000]
(Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-7 Issuance of original airport license.
Upon receipt of an application for original airport license, the director, with reasonable dispatch, shall issue a license appropriate to the character or type of airport if, on inspection, he is satisfied that the airport in question meets the standards set forth in §19-11-6. [Eff 6/12/81; comp NOV 27 2000]
(Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-8 Renewals. All airport licenses shall be renewable annually upon payment of the sum of \$10 as the application and upon the same considerations that they were originally issued pursuant to §19-11-7.
[Eff 6/12/81; comp NOV 27 2000]
(Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-9 Conditions. Notwithstanding §19-11-7 and §19-11-8, the granting and renewal of airport licenses may be made subject to any reasonable conditions that the director may deem necessary to effectuate the purpose of these rules and those conditions, if any, shall be noted on the face of the original or renewed license. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12)
(Imp: HRS §261-16)

§19-11-10 Revocation. The director may, after notice and opportunity for hearing to the licensee, revoke any license or renewal thereof or refuse to issue a renewal when he determines that:

- (1) There has been an abandonment of the airport as such; or

- (2) There has been a failure to comply with the conditions of the license or renewal thereof; or
- (3) Because of a change in the physical or legal conditions or circumstances, the airport has become either unsafe or unusable for the aeronautical purposes for which the license or renewal was issued. [Eff 6/12/81; comp **NOV 27 2000**] (Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-11 Public hearings. In connection with the grant of approval of a proposed airport site or the issuance of an airport license or renewal thereof under these rules, the director may, on his own motion or upon the request of an affected person, hold a hearing open to the public and shall hold the hearing when and as required by the provisions of §261-13, Hawaii Revised Statutes. [Eff 6/12/81; comp **NOV 27 2000**] (Auth: HRS §261-12) (Imp: HRS §§261-13, 261-16)

§19-11-12 Exemptions. These rules do not apply to airports owned or operated by the United States or to privately owned airports not open to the general public. To the extent necessary, the director may exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or requirement under these rules if he finds that its application would be an undue burden on the class and is not required in the interest of public safety. [Eff 6/12/81; am and comp **NOV 27 2000**] (Auth: HRS §261-12) (Imp: HRS §261-16)

§19-11-13 Applicability; severability. In any case in which these rules might be finally held to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent as to be in violation of the State constitution or the Constitution of the United States, such holding shall not affect the applicability of these rules to the use of other structures or parcels of land.

These rules are hereby declared to be severable and if any portion or the application thereof to any person, circumstance or property is held to be invalid for any

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reason, the validity of the remainder of the rules or that of the application of such remainder to other persons, circumstances or property shall not be affected. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: §§261-12, 261-16)

§19-11-14 Enforcement. Enforcement of these rules shall be as set forth in §261-17, Hawaii Revised Statutes. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-17)

§19-11-15 Penalties. Penalties for violation of any of these rules shall be as set forth in §261-12, Hawaii Revised Statutes. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-21)

§19-11-16 Repeal. The airport site approval, airport licensing and airport license renewal regulations effective May 11, 1970 and all rules relating to airport site approval, airport licensing and airport license renewal in effect prior to the effective date of this chapter are repealed. [Eff 6/12/81; comp NOV 27 2000] (Auth: HRS §261-12) (Imp: HRS §261-12)


DEPARTMENT OF TRANSPORTATION

Amendments to and compilation of Chapter 19-11, Hawaii Administrative Rules, on the Summary Page dated October 23, 2000, were adopted on October 23, 2000, following public hearings held on October 3 and 4, 2000, after public notice was given in the statewide Hawaii State & County Public Notices on August 21, 2000.

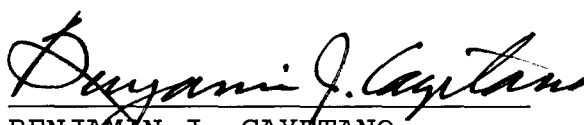
These amendments to and compilation of Chapter 19-11, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

LIEUTENANT GOVERNOR'S
OFFICE

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KAZU HAYASHIDA
Director of Transportation

APPROVED:

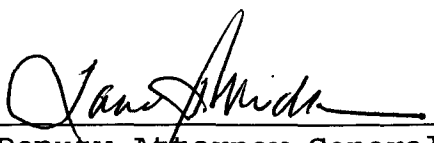

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 11/16/2000

NOV 17 2000

Filed

APPROVED AS TO FORM:


Deputy Attorney General