

DIRECTOR'S OFFICE
DEPT. OF
TRANSPORTATION

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DEPARTMENT OF TRANSPORTATION

Amendment and Compilation of Chapter 19-34
Hawaii Administrative Rules
July 20, 2000

SUMMARY

1. §19-34-1 is amended.
2. §19-34-8 is amended.
3. §19-34-10 is repealed.
4. Chapter 19-34 is compiled.

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DEPARTMENT OF
TRANSPORTATION
DIRECTOR
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HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 2

AIRPORTS DIVISION

CHAPTER 34

TOUR AIRCRAFT OPERATIONS AT PUBLIC AIRPORTS

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§19-34-1.1	Policy and intent
§19-34-2	Permit or authorization required
§19-34-3	Fee
§19-34-4	Application for Tour Aircraft Operators Permit
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§19-34-12	Penalties
§19-34-13	Reports

§19-34-1 Definitions. Unless the context clearly indicates otherwise, as used in this chapter:

"Air operations area" means that portion of a public airport designed and used for the landing, takeoff, or surface maneuvering of airplanes and includes the gate positions, ramps, and apron areas.

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

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

"FAA" means the Federal Aviation Administration of the United States.

"Operational area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for embarkation or debarkation of passengers.

"Permittee" means any person providing tour aircraft services to or from a public airport under a permit or other written authorization from the department.

"Person" means any individual, firm, partnership, corporation, trust, association, company, joint venture, or any other legal entity (including any assignee, receiver, trustee, employee, or similar representative).

"Public airport" means that area of land and water under state jurisdiction which is used for landing and takeoff of aircraft, and any appurtenant areas which are used for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

"State" means the State of Hawaii.

"Tour aircraft" means an aircraft used at any airport for the purpose of conducting commercial sightseeing activities by air.

"Tour aircraft operations" means any business operation which offers aircraft for hire by passengers for the purpose of aerial observation of landmarks and other man-made or natural sites within an island of the State, and for the purpose of transporting passengers for tourist-related activities. [Eff 10/6/89; am and comp] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-1.1 Policy and intent. Notwithstanding any policy or intent to the contrary, section 261-12, Hawaii Revised Statutes, and the rules provided in this chapter shall not be interpreted nor applied in any manner that is inconsistent with, or contrary to, the Federal Aviation Act of 1958, as amended, together with the Federal Aviation Regulations promulgated thereunder. Any information or item required to be provided by section 261-12, Hawaii Revised Statutes,

and this chapter prior to the issuance of a Tour Aircraft Operators Permit shall be utilized only for the purposes of obtaining information for airport planning and ground safety, and shall not be utilized as a means of limiting or restricting any federally-protected right of air transit and commerce, nor does it create or constitute any restriction upon the authorized air service operations of any person conducting tour aircraft operations. [Eff 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-2 Permit or authorization required. It shall be unlawful for any person to conduct tour aircraft operations on any state airport without first having obtained a Tour Aircraft Operators Permit from the department. [Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-3 Fee. The annual fee for a Tour Aircraft Operators Permit shall be \$500 payable in advance. Such permit shall be valid from the date of issuance or renewal unless sooner revoked or terminated. Each permit covers air tour operations from all state airports. Fee is non-refundable after effective date of permit. [Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-4 Application for Tour Aircraft Operators Permit. An application for a Tour Aircraft Operators Permit shall be submitted in such form as the director may prescribe and shall be accompanied by any available drawings, descriptive data and reports, FAA certificates and other data as provided herein:

- (1) Company name;
- (2) Owner(s) and operator(s) names;
- (3) Base of operation;
- (4) Identification of all aircraft to be regularly operated under the permit including FAA registration number, color, make and model number;

- (5) The number of proposed daily operations for each type of aircraft used and the days and hours of operation;
- (6) Verification that the applicant is in compliance with all state statutes, including but not limited to section 261-12, Hawaii Revised Statutes, as interpreted by this chapter;
- (7) Copy of a valid certificate issued by the FAA under authorization of part 121 or 135 or any other applicable part of the Federal Aviation Regulations;
- (8) Hawaii Sectional Aeronautical Chart marked to indicate proposed routes and altitudes to be used in conducting aerial tours; provided that the failure of a permittee to comply with the routes and altitudes indicated on the chart shall not be a basis to revoke or not renew a permit issued to the permittee;
- (9) "Fly Neighborly Program" or any other noise abatement program showing the voluntary noise abatement procedures to be employed in the vicinity of identified noise sensitive areas and the method to be employed in responding to complaints generated by or suspected to have been generated by the applicant's aircraft; and
- (10) Proof of insurance described in section 19-34-6.
[Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-5 Change in operation. (a) Any change which affects or alters the terms and conditions of the Tour Aircraft Operators Permit shall be submitted to the director for approval before such changes in the permit are effective.

(b) Any notice to change conditions under which the permit was issued shall be submitted in writing to the director at least twenty-four hours prior to the change. [Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12) (Imp: HRS §261-12)

§19-34-6 Insurance. (a) No Tour Aircraft Operators Permit shall be issued by the department unless the applicant has in effect aircraft liability insurance required by the FAA for air taxi operators certified under 14 CFR Part 135, as amended, or any other insurance providing the coverages described in this section.

(b) The minimum limit for the insurance coverage shall be the same as required by the FAA for air taxi operators certified under 14 CFR Part 135, as amended.

(c) Such insurance policy shall cover or indemnify the State of Hawaii from loss, damage, or injury to persons or property arising out of any accident, incident, or mishap of any nature whatsoever or from any cause whatsoever to any individual, aircraft, or property occurring on the airport or in the use of any of the airport facilities. The insurance policy, shall not be cancelable with less than thirty days written notice to the department.

(d) Any cancellation or suspension of the applicant's insurance for which a permit has been issued shall constitute good cause for immediate suspension or revocation of the permit by the director upon 10 days notice. All insurance policies shall be issued by an insurance company duly authorized to do business in the State.

(e) Proof of insurance may be accomplished by filing with the department any one of the following:

- (1) A certified original copy of the policy;
- (2) An abstract of the original policy signed by the issuing company;
- (3) A certificate of insurance, including the policy limits, attested to by the insurer; or
- (4) An additional certificate of insurance.

[Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**
(Auth: HRS §261-12) (Imp: HRS §261-12)]

§19-34-7 Renewals. (a) The holder of a Tour Aircraft Operators Permit issued under the provisions of this chapter must apply for a permit renewal if the permittee intends to continue tour aircraft operations.

(b) Each permittee desiring to renew its Tour Aircraft Operators Permit shall make application on forms provided by the director at least sixty days prior to the expiration date of the permit. The application shall be accompanied by the following:

- (1) An affidavit, sworn to by the permittee that the information submitted in support of the original permit, or notices of changes submitted thereafter remains accurate; and
- (2) Payment of the annual permit fee of five hundred dollars. [Eff 10/6/89; am 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-8 Revocation. The director may, after notice and opportunity for hearing to the permittee, revoke any permit, whether original or renewal, or refuse to issue a renewal when the director determines that:

- (1) Any false statement or misrepresentation was made by the applicant; or
- (2) The permittee has failed to comply with these rules.
[Eff 10/6/89; am 8/28/95; am and comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

§19-34-9 Transferability. A permit issued pursuant to this chapter may be sold, transferred or assigned, provided that the permittee gives written notice to the department at least thirty (30) days prior to any sale, transfer or assignment and further provided that such permittee is in compliance with the terms and conditions of the permit. [Eff 10/6/89; comp **AUG 10 2000**] (Auth: HRS §261-12)
(Imp: HRS §261-12)

~~§19-34-10~~ Repealed. [R]

§19-34-11 Severability. 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 reason, the validity of the remainder of these rules or that of the application of such remainder to other persons, circumstances or property shall not be affected.
[Eff 10/6/89; comp **AUG 10 2000**]
(Auth: HRS §261-12) (Imp: §261-12)

§19-34-12 Penalties. Penalties for violation of any of these rules shall be as set forth in §261-21, Hawaii Revised Statutes. [Eff 10/6/89; comp **AUG 10 2000**] (Auth: HRS §261-12) (Imp: §261-21)

§19-34-13 Reports. All tour aircraft operators shall on or before the last day of the succeeding month, file a report with the director on the total revenue landings for the previous month. [Eff 8/28/95; comp **AUG 10 2000**] (Auth: HRS §261-12) (Imp: HRS §261-7)

DEPARTMENT OF TRANSPORTATION

Amendments to and compilation of Chapter 19-34, Hawaii Administrative Rules, on the Summary Page dated July 20, 2000, were adopted on July 20, 2000, following public hearings held on June 27 and 28, 2000, after public notice was given in the statewide Hawaii State & County Public Notices on May 15, 2000.

These amendments to and compilation of Chapter 19-34, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.



KAZU HAYASHIDA
Director of Transportation

APPROVED:



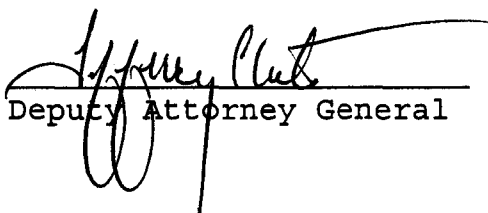
BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 7/26/2000

JUL 31 2000

Filed

APPROVED AS TO FORM:


Deputy Attorney General

LIEUTENANT GOVERNOR'S
OFFICE

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