

702 CMR: AERONAUTICS DIVISION

702 CMR 5.00: AIRPORTS, HELIPORTS AND RESTRICTED LANDING AREAS

Section

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5.01: Applications

Pursuant to M.G.L. c. 90, § 39B, no one may establish, alter, activate or deactivate an airport, heliport or restricted landing area without first obtaining a certificate of approval issued by the division pursuant to 702 CMR 5.02 through 5.06.

5.02: Scope

702 CMR 5.02 does not apply to:

- (1) private restricted landing areas, provided that any person constructing or maintaining a private restricted landing area must so inform the division in writing, and construct and maintain such landing area in accordance with all applicable standards and in such a manner as shall not endanger public safety;
- (2) airports, heliports or restricted landing areas operated by the Massachusetts Port Authority pursuant to St. 1956, c. 465; and
- (3) airports, heliports or restricted landing areas operated by the United States government including military airports.

5.03: Application Requirements

- (1) The applicant shall set forth the general purpose or purposes for which the airport, heliport or restricted landing area is to be established and ensure that the site, and its use, conform to all applicable safety standards.
- (2) All applications for an airport, heliport or restricted landing area must be submitted at least 90 days prior to the date the applicant intends to use the site as an airport, heliport or restricted landing area.
- (3) Applicants proposing an airport, heliport or restricted landing area or alterations to an airport, heliport or restricted landing area that is not located on property owned or controlled by the applicant or is partially located on property owned or controlled by others, must obtain authorization from the owner or person in control of the property to use the property. The signature of the owner or person in control of the property must be notarized. Such written, notarized authorizations must expressly authorize the applicant to apply for the activities set forth in the application.
- (4) Information required in the application includes the address, a description of the airport, heliport or restricted landing area, the general purpose or purposes for which the airport, heliport, or restricted landing area is to be established, the dates and times of the proposed use, a site plan drawn to scale, and a written plan addressing safety and security.
- (5) Applications for an airport, heliport, or restricted landing area must be accompanied by a fee in the amount determined by the division.

5.03: continued

(6) An airport, heliport or restricted landing area shall be inspected by the division prior to the issuance of a certificate of approval. The inspection shall include but not be limited to: wind indicators, management requirements, surface condition reporting, plans for safety and security, emergency equipment, established approaches, and ground-to-air communications, and other requirements deemed by the division to be applicable to the particular landing site.

(7) The applicant shall send written notification to the respective fire and police departments in the city or town where the proposed airport, heliport or restricted landing area is located. Such notification shall state that an application for a certificate of approval has been filed with the division, and that the applicant will notify the fire and police departments of application approval. The applicant shall submit a copy of this notification with the application for a certificate of approval.

(8) Pursuant to M.G.L. c. 90, § 39B, before issuing a certificate of approval for an airport, heliport or restricted landing area, the division shall hold a public hearing in the city or town where the airport, heliport, or restricted landing area is to be located.

5.04: Certificate of Approval

(1) The division will identify any apparent safety issues to be addressed or considered prior to use of the airport, heliport or restricted landing area using FAA requirements.

(2) It is the responsibility of the recipient of a certificate of approval for an airport, heliport or restricted landing area to independently determine whether aircraft may be safely landed at the proposed site and ensure that the surface of the landing area remains cleared of any obstructions and available for safe operations at the time the use is proposed.

(3) Any approval issued by the division shall be limited to the facts submitted with the application and be subject to the recipient of a certificate of approval for an airport, heliport or restricted landing area's and aircraft pilot's independent determination that the particular aircraft may be safely operated at the site prior to each use.

(4) A certificate of approval issued by the division does not obviate the need for compliance with any other applicable federal, state, or local laws.

(5) The certificate of approval shall only apply to those types of flight operations requested by the applicant.

(6) The recipient of a certificate of approval for an airport, heliport or restricted landing area must ensure that the use of the site complies with any conditions imposed by the division in the certificate of approval.

(7) The recipient of a certificate of approval for an airport, heliport or restricted landing area has an ongoing duty to maintain the certificate and ensure that there are not any changes or alterations as set forth in 702 CMR 5.05.

(8) The certificate of approval must be posted in the place of business in clear view of the public at all times.

5.05: Alterations/Changes to Airport, Heliport, Restricted Landing Area or Surrounding Area

It is the obligation of the recipient of a certificate of approval for an airport, heliport or restricted landing area to notify the division of any:

(1) alteration to, or de-activation of, the site; and

(2) change to the airport, heliport, restricted landing area or properties in the vicinity of the site that may affect the ability to land an aircraft. All alterations or changes must be approved by the division in advance of any use or change in use.

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5.06: Inspection Requirements

- (1) Airports, heliports and restricted landing areas shall be subject to inspection by the division with or without notice pursuant to 702 CMR 3.03: *Inspections*. Airports servicing air carrier operations pursuant to 49 C.F.R. Part 139 are subject to FAA inspection.
- (2) The inspections shall meet the criteria as set forth in 702 CMR 5.03.

5.07: Private Restricted Landing Areas

Persons maintaining a private restricted landing area must register with the division annually, and such landing areas shall be subject to an inspection at least once every five years by the division with reasonable notice.

5.08: Airport Managers

- (1) Licensing. Any person, qualified as provided in 702 CMR 5.08(2), who successfully passes a written examination given by the division, may be licensed as an Airport Manager. The division may, after due hearing if such hearing is requested, revoke or suspend any license issued hereunder for any cause which, in its discretion, it may deem sufficient.
- (2) Qualifications. Any citizen of the United States or a resident alien, at least 21 years of age, having a high school education or its equivalent, is eligible to take the required licensing examination.
- (3) Duties. The Airport Manager shall:
 - (a) Have authority to suspend flying operations on or from the airport when in his or her opinion the condition of the landing areas or local conditions might make such operations unsafe.
 - (b) Be responsible for the observance in the operation of the airport of all applicable laws governing aeronautics and the rules and regulations adopted or approved thereunder, including all requirements of 14 C.F.R. Part 139 if applicable.
 - (c) Designate a person whom he or she deems competent and whom he or she has instructed on the action to be followed in emergency situations to act in his or her stead at such times as he or she shall be absent from the airport.
 - (d) Report to the division infractions of aeronautical laws, rules or regulations, or accidents on or in the vicinity of the airport, or involving aircraft or airmen based at or customarily operating from the airport under the manager's jurisdiction.
 - (e) Report to the division all changes in size, marking, lighting, obstruction or surface conditions of landing areas of the airport which might affect the safety of aircraft operations.
 - (f) Forward to the division, on March 1st and September 1st of each year, a listing of all aircraft based at the airport.

5.09: Enforcement

- (1) Pursuant to M.G.L. c. 90, the division may issue orders to cease any activity which violates the provisions of M.G.L. c. 90, 702 CMR or any other law related to the operation of an airport, heliport or restricted landing area.
- (2) A person who fails to comply with any provision of 702 CMR, or any order issued by the division pursuant to 702 CMR 5.09(1), or who makes any false or misleading statements in information submitted to the division pursuant to 702 CMR or M.G.L. c. 90, may be subject to:
 - (a) fines, arrest and imprisonment pursuant to M.G.L. c. 90, § 44.
 - (b) the suspension, revocation, or conditioning of any license, permit or registration issued pursuant to 702 CMR and M.G.L. c. 90; and
 - (c) any other order, fine, or penalty as may be issued pursuant to M.G.L. c. 90, § 40.

REGULATORY AUTHORITY

702 CMR 5.00: M.G.L. c. 90, §§ 35, 39, 40 and 40A through 40G.