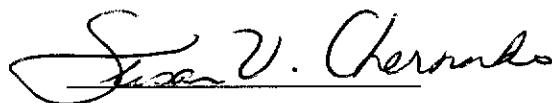


Summary of Comments Received Regarding the Repeal of
the West Virginia Aeronautics Commission, Series 1
Legislative Rules

August 30, 2000

The WV Aeronautics Commission filled a Notice of a Comment Period on a Proposed Rule with the Secretary of State's office on July 20, 2000 seeking public comment on their proposal to repeal Title 171, Series 1, Legislative Rules titled "Matters Pertaining to Aeronautics in the State of west Virginia". The thirty-day comment period required by law expired at 4:00 pm on August 30, 2000. No comments were received. The summary and the reasons for the proposal are attached.



Susan V. Chernenko
Acting Director
WV Aeronautics Commission



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
West Virginia Aeronautics Commission

1900 Kanawha Boulevard East • Building Five • Room 512
Charleston, West Virginia 25305-0430 • 304/558-0330

Cecil H. Underwood
Governor

Samuel H. Beverage, P. E.
Acting Secretary

Susan V. Chernenko
Acting Director

**Summary of Proposed Legislative Rulemaking by the
West Virginia Aeronautics Commission**

July 27, 2000

Title 171, Series 1 of the rules of the West Virginia Aeronautics Commission, titled "Matters Pertaining to Aeronautics in the State of West Virginia" relate to the licensing of airports, flight schools, flight instructors, minimum requirements for airports, air traffic rules and registration of pilots and aircraft.

The 1995 Legislature repealed West Virginia Code Chapter 29, Article 2A, Section 15, 16 and 27. These sections authorized the West Virginia Aeronautics Commission to license air schools and flight instructors and to certify airport sites and the licensing of airports.

The Federal Aviation Administration, a federal agency under the United States Department of Transportation, is responsible for certificating airmen, flight instructors, flight schools, airports and for the certification and registration of aircraft.

The West Virginia Aeronautics Commission proposes to repeal in its entirety Title 171, Series 1 Legislative Rules as an unnecessary and unauthorized conflict with federal authority and as an unauthorized responsibility under state statute. The continued existence of Title 171, Series 1 Legislative Rules conflicts with the Aeronautics Commission's current legislation.

A handwritten signature in black ink, appearing to read "Susan V. Chernenko", written over a horizontal line.

**Susan V. Chernenko
Acting Director
West Virginia Aeronautics Commission**

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 8 31 00 _____

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.)
WV Aeronautics Commission
1900 Kanawha Blvd. East Bldg. 5 Room 512
Charleston WV 25305

LEGISLATIVE RULE TITLE: Matters Pertaining to Aeronautics in the
State of West Virginia

1. Authorizing statute(s) citation 29-2A

2. a. Date filed in State Register with Notice of Hearing or
Public Comment Period:
July 28 2000

b. What other notice, including advertising, did you give
of the hearing?
None

c. Date of Public Hearing(s) or Public Comment Period ended:
August 30 2000

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received ^{XXX} _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing:
(be exact) August 31, 2000

f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Susan V. Chernenko. Acting Director. WV Aeronautics Commission

1900 Kanawha Blvd. East. Bldg. r Room 512. Charleston WV 25305

Phone (304) 558 0330 Fax (304) 558-0333 e mail schernenko@dot.state.wv.us

g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a

hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

N/A

Attached _____

WV Aeronautics Commission Legislative Rule
Title 171, Series 1

Attached is the Rule with strike-through and without as an aid to reading the existing Rule proposed to be repealed.

TITLE 171
LEGISLATIVE RULES
STATE AERONAUTICS COMMISSION

SERIES 1
MATTERS PERTAINING TO AERONAUTICS
IN THE STATE OF WEST VIRGINIA

FILED
SEP 1 9 33 AM '00
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§171-1-1. General.

~~1.1. Scope. — These rules relate to licensing of airports, schools, managers, applications, minimum requirements for airports, air traffic rules and registration of pilots and aircraft.~~

~~1.2. Authority. — W. Va. Code §29-2A et seq.~~

~~1.3. Filing Date. — December 28, 1982.~~

~~1.4. Effective Date. — December 28, 1982.~~

§171-1-2. Adoption Of Federal Air Commerce Act.

~~In all matters pertaining to aeronautics in the State of West Virginia, the Federal Air Commerce Act and all Rules and Regulations made pursuant thereto, now in effect or as hereafter amended, are accepted, adopted and promulgated as Rules and Regulations of The West Virginia State Aeronautics Commission, insofar as such Rules and Regulations are not in conflict with or superseded by any statute of this State or any duly adopted rule or regulation of the Commission, and all aeronautical activities within this State shall be governed by and conducted in accordance with the said Federal Rules and Regulations.~~

§171-1-3. Licensing Of Airports, Air Schools And Airport Managers.

~~3.1. All airports operated for commercial purposes in the State of West Virginia shall obtain from the Commission an airport license.~~

~~3.2. All air schools operating in this State shall obtain from the Commission an air school license.~~

~~3.3. Every licensed airport in this State shall employ an airport manager who shall obtain from the Commission an airport manager's license.~~

~~3.4. It shall be unlawful to operate any airport commercially, or to operate any air school, or for any person to engage in the occupation of airport manager, without first obtaining an appropriate license as provided for above; and it shall further be unlawful for any person to operate any aircraft for commercial purposes from any unlicensed airport.~~

~~3.5. All licenses issued by the Commission shall be issued on the following conditions:~~

~~— (a) That the holder thereof shall comply with all of the requirements of the laws of West Virginia and the United States governing aeronautics, and all of the requirements of the Rules and Regulations of the Commission and the Federal Civil Air Regulations.~~

~~— (b) That the holder thereof shall neither perform or engage in nor permit anyone in his employ or under his control to perform or engage in any act or practice connected with or related to aeronautics that endangers life or limb or the public safety.~~

~~— (c) That all material statements made by the applicant on his application for a license are true.~~

~~—These conditions shall apply to any license issued, whether the conditions are expressly set forth on the face of such license or not. The Commission may attach other conditions to any license by setting forth the conditions on the face of the license.~~

~~§171-1-4. Application Forms, Duration And Renewal And Fees For Licenses.~~

~~4.1. Application for any original license, or renewal of any license, required by regulation of the Commission shall be made on forms provided by the Commission and shall be accompanied by a fee of five dollars (\$5.00).~~

~~4.2. All licenses heretofore issued by the Commission or by the West Virginia Board of Aeronautics and now outstanding shall expire at midnight on December 31, 1948. All licenses issued hereafter shall be effective for the calendar year in which issued, subject to any limitation stated thereon and subject to earlier suspension or revocation. Applications for renewal shall be made not less than thirty (30) days prior to the expiration date thereof.~~

~~§171-1-5. Revocation, Suspension Or Refusal Of Licenses.~~

~~Any license issued by the Commission pursuant to the provisions of Sections 2 and 3 of these regulations may be revoked, suspended or denied by the Commission for any of the reasons set forth by statute, or for failure to comply with the conditions of the license. Such revocation, suspension, or denial shall be performed by the Commission in the manner provided by statute.~~

~~§171-1-6. Airport Ratings And Requirements.~~

~~Licensed airports shall be classified and issued licenses as Subclass 1, Class 1, 2, 3, 4, 5 and 6, and Seaplane Bases, depending on the size and type of runways available and the availability of other facilities pursuant to the requirements hereinafter set forth.~~

~~6.1. Minimum requirements for Subclass 1 airports.~~

~~A Subclass 1 airport may be licensed as such if it has a landing area of such size and nature as in the judgment of the Commission, will permit, with safety, the landing or taking off of aircraft of types that it might reasonably be expected to accommodate. The skill of the operator and the type of equipment used shall determine, in the sound discretion of the Commission, the minimum requirements for Subclass 1 airports.~~

~~In general, the landing strips must approximate the following dimensions:~~

~~Length 1,500 feet - width 250 feet.~~

~~At such airports at least one (1) landing strip shall be in the direction of the generally prevailing wind and shall have clear approaches at both ends. The surface of landing strips shall be reasonably smooth and free from ditches or excessive irregularities.~~

~~6.2. Minimum requirements for Class 1 airports.~~

~~—(a) Purpose. — To accommodate small private owner types. Includes planes with gross weights up to four thousand (4,000) pounds.~~

~~—(b) Landing strips. — 1,800 to 2,700 feet in length (sea level conditions); 300 feet usable width.~~

~~—(c) Paved runways. — Not required.~~

~~—(d) Number and alignment of landing strips. — Sufficient in number to permit take-offs and landings~~

within two (2) points (22 1/2 degrees) of the true wind direction for seventy percent (70%) of winds four (4) miles per hour and over.

— (e) Facilities. — Drainage, fencing.

— (f) Landing strip grades. — Two percent (2%) maximum transverse. Two percent (2%) maximum uniform longitudinal.

6.3. Minimum requirements for Class 2 airports.

— (a) Purpose. — To accommodate larger sizes private owner types and some small size transports. Roughly gross weights from four thousand (4,000) to fifteen thousand (15,000) pounds.

— (b) Landing strips. — 2,700 to 3,700 feet in length (sea level conditions); 500 feet usable width.

— (c) Paved runways. — One (1) surfaced runway for the effective length of each landing strip and having a paved width of 100 feet for day operations only, or 150 feet for night operations.

— (d) Number and alignment of landing strips. — Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for seventy five percent (75%) of winds four (4) miles per hour and over.

— (e) Facilities. — Drainage, fencing, lighting, hangar and shop. Weather information. Office space.

— (f) Landing strip grades. — Two percent (2%) maximum transverse; one and one half percent (1 1/2%) maximum uniform longitudinal.

— (g) Distance between center line of runway and airport building. — 750 foot minimum for instrument runway; 350 foot minimum for other runways.

6.4. Minimum requirements for Class 3 airports.

— (a) Purpose. — To accommodate present day transports. Represents, approximately, gross weights ten thousand (10,000) to fifty thousand (50,000) pounds.

— (b) Landing strips. — 3,700 to 4,700 feet in length (sea level conditions); 500 feet usable width. For parallel runways, allow 700 feet minimum between center lines.

— (c) Paved runways. — At least one (1) surfaced runway for the effective length of each landing strip and having a paved width of 100 feet for day operations only, 150 feet for night operations, and 200 feet for instrument operations. Parallel runways to be at least 700 feet apart, center line to center line.

— (d) Number and alignment of landing strips. — Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for eighty percent (80%) of winds four (4) miles per hour and over. Estimates should be based on a ten (10) year Weather Bureau record. The number of parallel landing strips should be determined by the ultimate capacity of the airport.

— (e) Facilities. — Drainage, fencing. Lighting. Hangar and shop. Weather Bureau. Two-way radio. Visual traffic control. Instrument approach system (when required).

— (f) Landing strip grades. — One and one half percent (1 1/2%) maximum transverse; one and one half percent (1 1/2%) maximum uniform longitudinal.

— (g) Distance between center line of runway and airport building. — 750 feet minimum for instrument runway; 350 feet minimum for other runways.

6.5. Minimum requirements for Class 4 and 5 airports.

— (a) Purpose. — To accommodate the largest planes in use and those planned for the immediate future. Represents, approximately, gross weights in excess of fifty thousand (50,000) pounds.

— (b) Landing strips. — 4,700 to 5,700 feet in length (sea level conditions); 500 feet usable width. For parallel runways, allow 700 feet minimum between center lines.

— (c) Paved runways. — At least one (1) surfaced runway for effective length of each landing strip and having a paved width of 100 feet for day operations only, 150 feet for night operations, and 200 feet for instrument operations. Parallel runways to be at least 700 feet apart, center line to center line.

— (d) Number and alignment of landing strips. — Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for ninety percent (90%) of winds four (4) miles per hour and over. Estimates should be based on a ten (10) year Weather Bureau record. The number of parallel landing strips should be determined by the ultimate capacity of the airport.

— (e) Facilities. — Drainage, fencing, Lighting, Hangar and shop, Weather Bureau, Two-way radio, Visual traffic control, Instrument approach system, Administration building.

— (f) Landing strip grades. — One and one-half percent (1 1/2%) maximum transverse; one percent (1%) maximum uniform longitudinal.

— (g) Distance between center line of runway and airport building. — 750 feet minimum for instrument runway; 350 feet minimum for other runways.

6.6. Minimum requirements for Class 6 airports.

The requirements shall be the same as for Class 4 and 5 except runway length will be greater than 5,700 feet.

6.7. Minimum requirements for seaplane bases.

The minimum requirements for seaplane bases are as follows: Situated on or directly connected with a body of water having a minimum depth of not less than 6 feet at any time, calm enough for operations in all ordinary weather and sufficiently large to permit landing and taking off of seaplanes and flying boats without hazard. By direct connection is meant a canal or other stream of water wide enough to allow taxiing of planes without difficulty and a distance of not more than one (1) quarter of a mile from the actual airport to the open water.

— (a) Facilities. — Suitable docking facilities for safe loading and discharging of passengers must be made available.

— (b) Office space. — Located on a good road leading to the nearest city or town.

6.8. Facilities required at all airports.

— (a) Field markings. — All licensed airports, with a right hand traffic pattern will be marked with a segmented circle located off the traffic area with a conventional wind cone located at its center. Basic element of the marker will be a circle 100 or more feet in diameter made of panels 6 to 12 feet in length and 4 feet wide, separated by about one fourth (1/4) of the length of each panel. The landing direction T, tetrahedron, or arrow will be in the middle of the circle, with the wind cone on top. Radiating panels outside the circle will show the location of the runways. Any color may be used for the segmented circle, provided it gives efficient contrast with the surrounding area.

~~—All other licensed airports are urged to install the segmented circle markers as an aid to visiting pilots.~~

~~—Suitable border markers shall be located around the usable landing area in such a manner as to adequately frame the landing area from the air. These markers may be of the cone or "Bench" type, painted either chrome yellow or international orange.~~

~~—The name of the town or city shall be placed near the field circle or on the roof of at least one (1) airport building in such a manner as to be visible in clear weather from an altitude of 2,000 feet, the letter in no case to be less than 6 feet in length. Where there are no suitable surfaces at the airport on which to display such name, this marking shall not be required.~~

~~—(b) Wind indicators. — All licensed airports shall be equipped with one (1) or more wind direction indicators, equivalent in effect to a wind cone not less than 12 feet long, 36 inches in diameter at throat, 12 inches in diameter at tail. Such indicator shall be so located that it will show a true indication of the wind direction on the landing area and to be readily visible, to aircraft approaching the airport in any direction, and be so suspended as not to foul its standard.~~

~~—(c) Marking of hazards. — All telephone and transmission poles, radio towers, flag poles and similar obstructions in the immediate vicinity of all licensed airports shall be marked by painting with alternate bands of either chrome yellow and dead black, or white and international orange. Water towers in the vicinity need not be marked unless in the opinion of the Commission such painting is necessary from the standpoint of safety. In the event of night operation all such surrounding hazards shall be marked with suitable obstruction lights.~~

~~—(d) All airports shall have appointed by the owner or operator thereof, an airport manager to perform the duties hereinafter set forth in Section 8 of these rules. Any such airport manager so appointed shall first obtain from the Commission a license as provided by Section 3 of these rules.~~

~~—(e) All airports shall make the following available to the users thereof:~~

~~——(1) Facilities for supplying aircraft with fuel, oil and water.~~

~~——(2) Drinking water and adequate and separate restroom facilities for men and women.~~

~~——(3) Dependable transportation facilities to the nearest town or city.~~

~~——(4) A sufficient number of chocks with ropes attached, rope, and stakes to tie down the number of planes normally requiring this service at the airport or seaplane base.~~

~~——(5) Personnel in attendance by day or available on call by telephone. Telephone facilities within a reasonable distance. Instructions for reaching airport personnel should be clearly posted.~~

~~——(6) An airport registry book.~~

~~——(7) Copies of the West Virginia statutes, Rules and Regulations of the Commission governing aeronautics and the Rules and Regulations of the Civil Aeronautics Authority.~~

~~——(8) A sufficient number of approved fire extinguishers and first aid supplies to provide adequate protection against accident.~~

~~——(9) A bulletin board on which shall be posted Local Field Rules and any pertinent and current State or Federal Bulletins or other information.~~

~~—(f) The Commission may, for good cause shown, waive, either permanently or temporarily, any of the requirements set forth in this section as a prerequisite to the issuance of an airport license, but such waiver~~

shall be permitted only when the public safety will not be endangered thereby. Such waiver shall be specifically set forth on the face of the license.

— (g) After an airport has been licensed, any changes in its landing strips, facilities or equipment shall be reported to the Commission immediately.

§171-1-7. Requirements For Licensed Air School.

7.1. Any air school applying for a license pursuant to the provisions of Section 3 of these regulations shall meet the following requirements:

— (a) Provide suitable space of a permanent nature, properly heated, lighted and ventilated, adequate to house equipment necessary to the proper conduct of business matters and the preparation of records appropriate to the flight operation.

— (b) Provide a suitable space of a permanent nature, properly heated and lighted, to accommodate flight students receiving instruction. In addition, adequate toilet and washroom facilities must be provided.

— (c) Provide a hangar or hangars of substantial construction, adequate to house aircraft.

— (d) Provide suitable space, properly heated and lighted, in which to conduct all necessary periodic inspection, repairs, and other maintenance functions. Sufficient tools and mechanical devices must be provided adequate to perform all maintenance function. If these facilities are not provided, a contractual agreement with a reputable maintenance and repair agency may be effected: Provided, That such services and facilities are immediately available.

— (e) Provide a sufficient number of properly certificated aircraft to accommodate the number of students enrolled.

— (f) Employ, to give flight and ground instruction, only such persons as hold a flight and ground instructor rating.

— (g) Provide sufficient certificated personnel, either regularly employed, or under contract, to maintain aircraft used for flight instruction in full airworthy condition at all times.

— (h) Provide a satisfactory flight and ground curriculum.

— (i) Maintain all rest rooms, office, lounge rooms, hangars and shops in a clean and sanitary condition at all times.

7.2. Upon revocation of the license of any air school by the Commission, reapplication by such air school for a license shall not be made within ninety (90) days from the date of revocation.

§171-1-8. Duties Of Airport Manager.

8.1. Report to the Commission all accidents to aircraft, pilots or passengers of which he has knowledge and which have occurred within a radius of five (5) miles of his airport, or have occurred to any aircraft normally housed, stored or operated from his field.

8.2. Report to the Commission all violations of air traffic rules, of which he has knowledge.

8.3. Be responsible that all airport equipment specified under his license is available and in operating condition.

~~8.4. Keep a Registry Book, showing arrival and departure of aircraft at his airport, the names of airmen and number of passengers therein, owner of aircraft, license number of aircraft and pilot, time of arrival and departure.~~

~~8.5. Report to the Commission any work in progress on his airport or any changes or conditions which make the field unsafe for use.~~

~~8.6. Advise the Commission of any areas in the vicinity of his airport that are restricted.~~

~~8.7. Enforce the Regulations of the West Virginia State Aeronautics Commission on, and in the vicinity of, the airport.~~

~~8.8. If airport is lighted, advise the Commission of any changes in lighting system, or when lighting facilities are, for any reason, to be discontinued, even temporarily.~~

~~8.9. Advise the Commission sufficiently in advance of the occurrence of any air show, race, or carnival, in order that a representative of the Commission may be present, if deemed advisable.~~

~~8.10. Advise the Commission of any change in status.~~

~~8.11. Advise the Commission of any aircraft or airman that has been "Grounded" for the sake of public safety.~~

~~8.12. Be responsible that all mechanics, instructors, schools and clubs operating from his airport have appropriate and effective licenses or certificates as required by the United States Civil Aeronautics Authority, the laws of the State of West Virginia, or the Rules and Regulations of the Commission.~~

~~8.13. Notify the Commission of any unlicensed aircraft or pilot operating in the vicinity of his airport.~~

~~8.14. Notify the Commission of any aircraft that is deemed unairworthy or unsafe, operating in the vicinity of his airport.~~

~~8.15. At all times be authorized to take such measures in the handling, conduct and management of the public in attendance at the airport as may be necessary to secure the public safety and the efficient operation of the airport.~~

~~8.16. Except in case of a scheduled operation, have authority to suspend flying operations on, or from, the airport, when in his opinion, the condition of the landing area or meteorological conditions might make such operations unsafe. The airport manager shall have authority to "Ground" any aircraft or airman for the sake of public safety and the Commission shall be advised at once of his action.~~

~~8.17. Make such local rules as may be considered necessary in the efficient conduct of his airport and to provide maximum safety to persons and property. Such rules shall be subject to the approval of the Commission or its representative and shall be posted on the bulletin board of the airport, and a copy filed with the Commission.~~

~~8.18. Make such other reports and provide such other information as the Commission or the Director may request.~~

~~§171-1-9. Certificates Of Approval Of Airport Sites.~~

~~Certificates of approval of airport sites will be issued by the Commission pursuant to the provisions of section sixteen, article two a, chapter twenty nine of the Code, upon application therefor. Forms for such application shall be furnished by the Commission, on request, and no application for such certificate will be received by the Commission unless it is presented on such form.~~

Upon receipt of such application, the Commission will investigate the proposed site and either grant a certificate upon conditions, or deny a certificate, pursuant to the provisions of the above mentioned section of the Code.

§171-1-10. ~~Distribution Of Leaflets And Advertising Matter From Aircraft.~~

~~No person shall drop, throw, or in any manner distribute any papers, advertisements, leaflets, or similar matter from any aircraft while in flight, nor shall any airman or other person participate in any way in the operation of aircraft for the aforesaid purpose, unless the Commission shall have first issued authority in writing for such flight for such purpose.~~

~~Application for the above mentioned authority shall be submitted to the Commission in writing, not less than five (5) days preceding the date on which the flight is to be made. The application shall set forth: (1) Date of the proposed flight; (2) pilot's name; (3) number and classification of any pilots licenses held by the pilot; (4) type and license number of plane to be used; (5) points of origin and destination of the flight; (6) area or areas over which the matter to be distributed will be dropped; (7) a statement that the flight is to be conducted in conformance with the applicable CAA Rules and Regulations. There shall be submitted with each such application a permission in writing, signed by the proper municipal authority of each municipality over which the matter to be distributed will be dropped, showing the assent of each such municipality to the proposed activity.~~

~~Upon receipt of a timely and proper application, the Commission will issue authority for a flight for the purpose aforesaid if, in the Commission's opinion, the pilot is competent and duly qualified, proper permission has been obtained from the municipalities concerned, the proposed flight will not violate any law, rule, or regulation of the United States or its agencies, or of the State of West Virginia or its agencies, and the proposed flight will not endanger public safety.~~

§171-1-11. ~~Air Shows.~~

~~Any air show or exhibition held or conducted within this State shall be conducted in conformance with the following rules:~~

- ~~— (a) Positive control over participants and spectators will be established and maintained.~~
- ~~— (b) Aircraft will not be flown over, toward, or less than 500 feet horizontally from, the grandstand or spectators.~~
- ~~— (c) Adequate provision will be made for safe operation of aircraft on the ground.~~
- ~~— (d) Adequate first aid and fire fighting equipment will be immediately available.~~
- ~~— (e) Adequate means will be provided to inform all aircraft operating in the area in which activities of the show are to be carried on, that an air show is in progress.~~
- ~~— (f) Adequate provision will be made for the arrival and departure, at the field at which the air show is being conducted, of both participating and nonparticipating aircraft.~~
- ~~— (g) The skill and experience requirements for all contestants entered in the published events shall be satisfactory to the approving agent.~~
- ~~— (h) Flight operations conducted at the air show shall be limited to the events listed on the original CAA air show application form.~~
- ~~— (i) Permission must be obtained from the Commission for any activity at the air show involving a departure from or conflict with any applicable state aviation regulation.~~

~~— (k) CAA approved type certificated parachutes shall be used on all exhibition jumps.~~

~~— (l) Aerobatics on the airways may be conducted only after thorough coordination with, and prior permission from the local air traffic control. No flight shall be conducted at any altitude that will conflict with or create a hazard to other aircraft using the airway.~~

~~— (m) All or any part of any air show may, for just cause, be canceled at any time by the CAA supervising agent or the West Virginia State Director of Aeronautics.~~

~~— (n) All flight activity shall be conducted under VFR weather conditions.~~

~~— NOTE: CAA Policy. It is the policy of the CAA in carrying out the Federal Aid Airport Program to participate in the construction or improvement of only one (1) runway or strip on new or existing Class I (Personal) airports.~~

~~— On all other classes of airports, the construction of an additional runway or runways, will be approved only where required to handle the volume of traffic and must be nonintersecting with other runways by being placed either parallel or diverging. More than one (1) existing runway on airports larger than Class I may be improved if desirable from operating requirements other than wind coverage.~~

~~§171-1-12. Landing Fees.~~

~~Landing fees for aircraft weighing less than six thousand five hundred (6,500) pounds at any airport in West Virginia is prohibited.~~

~~NOTE: This regulation does not preclude charges to visiting general aviation aircraft, or locally based aircraft for handling, checking, tying down, storage, etc; provided these services are rendered.~~

~~§171-1-13. Traffic Patterns.~~

~~Aircraft grossing twelve thousand five hundred (12,500) pounds or more shall conform to a circling pattern prior to landing at uncontrolled airports in West Virginia. This pattern shall be to the left, or counterclockwise, unless otherwise indicated by standard visual markings on the ground.~~

~~NOTE: This regulation is not intended to supplement, affect, or in any way change the normal rectangular pattern prescribed for light aircraft.~~

~~§171-1-14. Registration Of Pilots.~~

~~All pilots residing in West Virginia or employed by business firms, corporations, or private individuals in this State, shall register with the West Virginia State Aeronautics Commission.~~

~~Registration will be conducted on an annual basis effective July 1, 1964, and the Aeronautics Commission shall furnish each pilot an appropriate registration form.~~

~~Current records shall be maintained in the West Virginia State Aeronautics Commission Office and it shall be the responsibility of each pilot to notify the Commission of changes to his license, change of address, revocation by the Federal Aviation Agency, expiration of medical certificate or changes for any other reason.~~

~~§171-1-15. Registration Of Aircraft.~~

~~All aircraft based in West Virginia, owned or leased by private citizens, flying clubs, business firms, corporations, flight schools, aircraft dealers, political divisions or subdivisions, shall register each aircraft with the West Virginia State Aeronautics Commission.~~

~~Aircraft owned or operated by any of the aforementioned individuals, clubs, firms, corporations, schools, dealers, or divisions, hangaring their aircraft in other states shall also register.~~

~~Registration will be conducted on an annual basis effective January 1, 1965, on forms provided by the Aeronautics Commission.~~

~~It shall be the responsibility of each owner, co-owner, or lessee to request appropriate registration forms from the Aeronautics Commission and to promptly advise the Aeronautics Commission, of any change in ownership, transfer, destruction or retirement of aircraft. Records shall be maintained in the West Virginia Aeronautics Commission's Office reflecting any changes.~~

**TITLE 171
LEGISLATIVE RULES
STATE AERONAUTICS COMMISSION**

**SERIES 1
MATTERS PERTAINING TO AERONAUTICS
IN THE STATE OF WEST VIRGINIA**

§171-1-1. General.

1.1. Scope. -- These rules relate to licensing of airports, schools, managers, applications, minimum requirements for airports, air traffic rules and registration of pilots and aircraft.

1.2. Authority. -- W. Va. Code §29-2A et seq.

1.3. Filing Date. -- December 28, 1982.

1.4. Effective Date. -- December 28, 1982.

§171-1-2. Adoption Of Federal Air Commerce Act.

In all matters pertaining to aeronautics in the State of West Virginia, the Federal Air Commerce Act and all Rules and Regulations made pursuant thereto, now in effect or as hereafter amended, are accepted, adopted and promulgated as Rules and Regulations of The West Virginia State Aeronautics Commission, insofar as such Rules and Regulations are not in conflict with or superseded by any statute of this State or any duly adopted rule or regulation of the Commission, and all aeronautical activities within this State shall be governed by and conducted in accordance with the said Federal Rules and Regulations.

§171-1-3. Licensing Of Airports, Air Schools And Airport Managers.

3.1. All airports operated for commercial purposes in the State of West Virginia shall obtain from the Commission an airport license.

3.2. All air schools operating in this State shall obtain from the Commission an air school license.

3.3. Every licensed airport in this State shall employ an airport manager who shall obtain from the Commission an airport manager's license.

3.4. It shall be unlawful to operate any airport commercially, or to operate any air school, or for any person to engage in the occupation of airport manager, without first obtaining an appropriate license as provided for above; and it shall further be unlawful for any person to operate any aircraft for commercial purposes from any unlicensed airport.

3.5. All licenses issued by the Commission shall be issued on the following conditions:

(a) That the holder thereof shall comply with all of the requirements of the laws of West Virginia and the United States governing aeronautics, and all of the requirements of the Rules and Regulations of the Commission and the Federal Civil Air Regulations.

(b) That the holder thereof shall neither perform or engage in nor permit anyone in his employ or under his control to perform or engage in any act or practice connected with or related to aeronautics that endangers life or limb or the public safety.

(c) That all material statements made by the applicant on his application for a license are true.

These conditions shall apply to any license issued, whether the conditions are expressly set forth on the face of such license or not. The Commission may attach other conditions to any license by setting forth the conditions on the face of the license.

§171-1-4. Application Forms, Duration And Renewal And Fees For Licenses.

4.1. Application for any original license, or renewal of any license, required by regulation of the Commission shall be made on forms provided by the Commission and shall be accompanied by a fee of five dollars (\$5.00).

4.2. All licenses heretofore issued by the Commission or by the West Virginia Board of Aeronautics and now outstanding shall expire at midnight on December 31, 1948. All licenses issued hereafter shall be effective for the calendar year in which issued, subject to any limitation stated thereon and subject to earlier suspension or revocation. Applications for renewal shall be made not less than thirty (30) days prior to the expiration date thereof.

§171-1-5. Revocation, Suspension Or Refusal Of Licenses.

Any license issued by the Commission pursuant to the provisions of Sections 2 and 3 of these regulations may be revoked, suspended or denied by the Commission for any of the reasons set forth by statute, or for failure to comply with the conditions of the license. Such revocation, suspension, or denial shall be performed by the Commission in the manner provided by statute.

§171-1-6. Airport Ratings And Requirements.

Licensed airports shall be classified and issued licenses as Subclass 1, Class 1, 2, 3, 4, 5 and 6, and Seaplane Bases, depending on the size and type of runways available and the availability of other facilities pursuant to the requirements hereinafter set forth.

6.1. Minimum requirements for Subclass 1 airports.

A Subclass 1 airport may be licensed as such if it has a landing area of such size and nature as in the judgment of the Commission, will permit, with safety, the landing or taking off of aircraft of types that it might reasonably be expected to accommodate. The skill of the operator and the type of equipment used shall determine, in the sound discretion of the Commission, the minimum requirements for Subclass 1 airports.

In general, the landing strips must approximate the following dimensions:

Length 1,500 feet -width 250 feet.

At such airports at least one (1) landing strip shall be in the direction of the generally prevailing wind and shall have clear approaches at both ends. The surface of landing strips shall be reasonably smooth and free from ditches or excessive irregularities.

6.2. Minimum requirements for Class 1 airports.

(a) Purpose. -- To accommodate small private owner types. Includes planes with gross weights up to four thousand (4,000) pounds.

(b) Landing strips. -- 1,800 to 2,700 feet in length (sea level conditions); 300 feet usable width.

(c) Paved runways. -- Not required.

(d) Number and alignment of landing strips. -- Sufficient in number to permit take-offs and landings

within two (2) points (22 1/2 degrees) of the true wind direction for seventy percent (70%) of winds four (4) miles per hour and over.

(e) Facilities. -- Drainage, fencing.

(f) Landing strip grades. -- Two percent (2%) maximum transverse. Two percent (2%) maximum uniform longitudinal.

6.3. Minimum requirements for Class 2 airports.

(a) Purpose. -- To accommodate larger sizes private owner types and some small size transports. Roughly gross weights from four thousand (4,000) to fifteen thousand (15,000) pounds.

(b) Landing strips. -- 2,700 to 3,700 feet in length (sea level conditions); 500 feet usable width.

(c) Paved runways. -- One (1) surfaced runway for the effective length of each landing strip and having a paved width of 100 feet for day operations only, or 150 feet for night operations.

(d) Number and alignment of landing strips. -- Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for seventy-five percent (75%) of winds four (4) miles per hour and over.

(e) Facilities. -- Drainage, fencing, lighting, hangar and shop. Weather information. Office space.

(f) Landing strip grades. -- Two percent (2%) maximum transverse; one and one-half percent (1 1/2%) maximum uniform longitudinal.

(g) Distance between center line of runway and airport building. -- 750 foot minimum for instrument runway; 350 foot minimum for other runways.

6.4. Minimum requirements for Class 3 airports.

(a) Purpose. -- To accommodate present day transports. Represents, approximately, gross weights ten thousand (10,000) to fifty thousand (50,000) pounds.

(b) Landing strips. -- 3,700 to 4,700 feet in length (sea level conditions); 500 feet usable width. For parallel runways, allow 700 feet minimum between center lines.

(c) Paved runways. -- At least one (1) surfaced runway for the effective length of each landing strip and having a paved width of 100 feet for day operations only, 150 feet for night operations, and 200 feet for instrument operations. Parallel runways to be at least 700 feet apart, center line to center line.

(d) Number and alignment of landing strips. -- Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for eighty percent (80%) of winds four (4) miles per hour and over. Estimates should be based on a ten (10) year Weather Bureau record. The number of parallel landing strips should be determined by the ultimate capacity of the airport.

(e) Facilities. -- Drainage, fencing. Lighting. Hangar and shop. Weather Bureau. Two-way radio. Visual traffic control. Instrument approach system (when required).

(f) Landing strip grades. -- One and one-half percent (1 1/2%) maximum transverse; one and one-half percent (1 1/2%) maximum uniform longitudinal.

(g) Distance between center line of runway and airport building. -- 750 feet minimum for instrument runway; 350 feet minimum for other runways.

6.5. Minimum requirements for Class 4 and 5 airports.

(a) Purpose. -- To accommodate the largest planes in use and those planned for the immediate future. Represents, approximately, gross weights in excess of fifty thousand (50,000) pounds.

(b) Landing strips. -- 4,700 to 5,700 feet in length (sea level conditions); 500 feet usable width. For parallel runways, allow 700 feet minimum between center lines.

(c) Paved runways. -- At least one (1) surfaced runway for effective length of each landing strip and having a paved width of 100 feet for day operations only, 150 feet for night operations, and 200 feet for instrument operations. Parallel runways to be at least 700 feet apart, center line to center line.

(d) Number and alignment of landing strips. -- Sufficient in number to permit take-offs and landings within two (2) points (22 1/2 degrees) of the true wind direction for ninety percent (90%) of winds four (4) miles per hour and over. Estimates should be based on a ten (10) year Weather Bureau record. The number of parallel landing strips should be determined by the ultimate capacity of the airport.

(e) Facilities. -- Drainage, fencing. Lighting. Hangar and shop. Weather Bureau. Two-way radio. Visual traffic control. Instrument approach system. Administration building.

(f) Landing strip grades. -- One and one-half percent (1 1/2%) maximum transverse; one percent (1%) maximum uniform longitudinal.

(g) Distance between center line of runway and airport building. -- 750 feet minimum for instrument runway; 350 feet minimum for other runways.

6.6. Minimum requirements for Class 6 airports.

The requirements shall be the same as for Class 4 and 5 except runway length will be greater than 5,700 feet.

6.7. Minimum requirements for seaplane bases.

The minimum requirements for seaplane bases are as follows: Situated on or directly connected with a body of water having a minimum depth of not less than 6 feet at any time, calm enough for operations in all ordinary weather and sufficiently large to permit landing and taking-off of seaplanes and flying boats without hazard. By direct connection is meant a canal or other stream of water wide enough to allow taxiing of planes without difficulty and a distance of not more than one (1) quarter of a mile from the actual airport to the open water.

(a) Facilities. -- Suitable docking facilities for safe loading and discharging of passengers must be made available.

(b) Office space. -- Located on a good road leading to the nearest city or town.

6.8. Facilities required at all airports.

(a) Field markings. -- All licensed airports, with a right hand traffic pattern will be marked with a segmented circle located off the traffic area with a conventional wind cone located at its center. Basic element of the marker will be a circle 100 or more feet in diameter made of panels 6 to 12 feet in length and 4 feet wide, separated by about one fourth (1/4) of the length of each panel. The landing direction T, tetrahedron, or arrow will be in the middle of the circle, with the wind cone on top. Radiating panels outside the circle will show the location of the runways. Any color may be used for the segmented circle, provided it gives efficient contrast with the surrounding area.

All other licensed airports are urged to install the segmented circle markers as an aid to visiting pilots.

Suitable border markers shall be located around the usable landing area in such a manner as to adequately frame the landing area from the air. These markers may be of the cone or "Bench" type, painted either chrome yellow or international orange.

The name of the town or city shall be placed near the field circle or on the roof of at least one (1) airport building in such a manner as to be visible in clear weather from an altitude of 2,000 feet, the letter in no case to be less than 6 feet in length. Where there are no suitable surfaces at the airport on which to display such name, this marking shall not be required.

(b) Wind indicators. -- All licensed airports shall be equipped with one (1) or more wind-direction indicators, equivalent in effect to a wind cone not less than 12 feet long, 36 inches in diameter at throat, 12 inches in diameter at tail. Such indicator shall be so located that it will show a true indication of the wind direction on the landing area and to be readily visible, to aircraft approaching the airport in any direction, and be so suspended as not to foul its standard.

(c) Marking of hazards. -- All telephone and transmission poles, radio towers, flag poles and similar obstructions in the immediate vicinity of all licensed airports shall be marked by painting with alternate bands of either chrome yellow and dead black, or white and international orange. Water towers in the vicinity need not be marked unless in the opinion of the Commission such painting is necessary from the standpoint of safety. In the event of night operation all such surrounding hazards shall be marked with suitable obstruction lights.

(d) All airports shall have appointed by the owner or operator thereof, an airport manager to perform the duties hereinafter set forth in Section 8 of these rules. Any such airport manager so appointed shall first obtain from the Commission a license as provided by Section 3 of these rules.

(e) All airports shall make the following available to the users thereof:

- (1) Facilities for supplying aircraft with fuel, oil and water.
- (2) Drinking water and adequate and separate restroom facilities for men and women.
- (3) Dependable transportation facilities to the nearest town or city.
- (4) A sufficient number of chocks with ropes attached, rope, and stakes to tie down the number of planes normally requiring this service at the airport or seaplane base.
- (5) Personnel in attendance by day or available on call by telephone. Telephone facilities within a reasonable distance. Instructions for reaching airport personnel should be clearly posted.
- (6) An airport registry book.
- (7) Copies of the West Virginia statutes, Rules and Regulations of the Commission governing aeronautics and the Rules and Regulations of the Civil Aeronautics Authority.
- (8) A sufficient number of approved fire extinguishers and first aid supplies to provide adequate protection against accident.
- (9) A bulletin board on which shall be posted Local Field Rules and any pertinent and current State or Federal Bulletins or other information.

(f) The Commission may, for good cause shown, waive, either permanently or temporarily, any of the requirements set forth in this section as a prerequisite to the issuance of an airport license, but such waiver

shall be permitted only when the public safety will not be endangered thereby. Such waiver shall be specifically set forth on the face of the license.

(g) After an airport has been licensed, any changes in its landing strips, facilities or equipment shall be reported to the Commission immediately.

§171-1-7. Requirements For Licensed Air School.

7.1. Any air school applying for a license pursuant to the provisions of Section 3 of these regulations shall meet the following requirements:

(a) Provide suitable space of a permanent nature, properly heated, lighted and ventilated, adequate to house equipment necessary to the proper conduct of business matters and the preparation of records appropriate to the flight operation.

(b) Provide a suitable space of a permanent nature, properly heated and lighted, to accommodate flight students receiving instruction. In addition, adequate toilet and washroom facilities must be provided.

(c) Provide a hangar or hangars of substantial construction, adequate to house aircraft.

(d) Provide suitable space, properly heated and lighted, in which to conduct all necessary periodic inspection, repairs, and other maintenance functions. Sufficient tools and mechanical devices must be provided adequate to perform all maintenance function. If these facilities are not provided, a contractual agreement with a reputable maintenance and repair agency may be effected: Provided, That such services and facilities are immediately available.

(e) Provide a sufficient number of properly certificated aircraft to accommodate the number of students enrolled.

(f) Employ, to give flight and ground instruction, only such persons as hold a flight and ground instructor rating.

(g) Provide sufficient certificated personnel, either regularly employed, or under contract, to maintain aircraft used for flight instruction in full airworthy condition at all times.

(h) Provide a satisfactory flight and ground curriculum.

(i) Maintain all rest rooms, office, lounge rooms, hangars and shops in a clean and sanitary condition at all times.

7.2. Upon revocation of the license of any air school by the Commission, reapplication by such air school for a license shall not be made within ninety (90) days from the date of revocation.

§171-1-8. Duties Of Airport Manager.

8.1. Report to the Commission all accidents to aircraft, pilots or passengers of which he has knowledge and which have occurred within a radius of five (5) miles of his airport, or have occurred to any aircraft normally housed, stored or operated from his field.

8.2. Report to the Commission all violations of air traffic rules, of which he has knowledge.

8.3. Be responsible that all airport equipment specified under his license is available and in operating condition.

8.4. Keep a Registry Book, showing arrival and departure of aircraft at his airport, the names of airmen and number of passengers therein, owner of aircraft, license number of aircraft and pilot, time of arrival and departure.

8.5. Report to the Commission any work in progress on his airport or any changes or conditions which make the field unsafe for use.

8.6. Advise the Commission of any areas in the vicinity of his airport that are restricted.

8.7. Enforce the Regulations of the West Virginia State Aeronautics Commission on, and in the vicinity of, the airport.

8.8. If airport is lighted, advise the Commission of any changes in lighting system, or when lighting facilities are, for any reason, to be discontinued, even temporarily.

8.9. Advise the Commission sufficiently in advance of the occurrence of any air show, race, or carnival, in order that a representative of the Commission may be present, if deemed advisable.

8.10. Advise the Commission of any change in status.

8.11. Advise the Commission of any aircraft or airman that has been "Grounded" for the sake of public safety.

8.12. Be responsible that all mechanics, instructors, schools and clubs operating from his airport have appropriate and effective licenses or certificates as required by the United States Civil Aeronautics Authority, the laws of the State of West Virginia, or the Rules and Regulations of the Commission.

8.13. Notify the Commission of any unlicensed aircraft or pilot operating in the vicinity of his airport.

8.14. Notify the Commission of any aircraft that is deemed unairworthy or unsafe, operating in the vicinity of his airport.

8.15. At all times be authorized to take such measures in the handling, conduct and management of the public in attendance at the airport as may be necessary to secure the public safety and the efficient operation of the airport.

8.16. Except in case of a scheduled operation, have authority to suspend flying operations on, or from, the airport, when in his opinion, the condition of the landing area or meteorological conditions might make such operations unsafe. The airport manager shall have authority to "Ground" any aircraft or airman for the sake of public safety and the Commission shall be advised at once of his action.

8.17. Make such local rules as may be considered necessary in the efficient conduct of his airport and to provide maximum safety to persons and property. Such rules shall be subject to the approval of the Commission or its representative and shall be posted on the bulletin board of the airport, and a copy filed with the Commission.

8.18. Make such other reports and provide such other information as the Commission or the Director may request.

§171-1-9. Certificates Of Approval Of Airport Sites.

Certificates of approval of airport sites will be issued by the Commission pursuant to the provisions of section sixteen, article two-a, chapter twenty-nine of the Code, upon application therefor. Forms for such application shall be furnished by the Commission, on request, and no application for such certificate will be received by the Commission unless it is presented on such form.

Upon receipt of such application, the Commission will investigate the proposed site and either grant a certificate upon conditions, or deny a certificate, pursuant to the provisions of the above mentioned section of the Code.

§171-1-10. Distribution Of Leaflets And Advertising Matter From Aircraft.

No person shall drop, throw, or in any manner distribute any papers, advertisements, leaflets, or similar matter from any aircraft while in flight, nor shall any airman or other person participate in any way in the operation of aircraft for the aforesaid purpose, unless the Commission shall have first issued authority in writing for such flight for such purpose.

Application for the above mentioned authority shall be submitted to the Commission in writing, not less than five (5) days preceding the date on which the flight is to be made. The application shall set forth: (1) Date of the proposed flight; (2) pilot's name; (3) number and classification of any pilots licenses held by the pilot; (4) type and license number of plane to be used; (5) points of origin and destination of the flight; (6) area or areas over which the matter to be distributed will be dropped; (7) a statement that the flight is to be conducted in conformance with the applicable CAA Rules and Regulations. There shall be submitted with each such application a permission in writing, signed by the proper municipal authority of each municipality over which the matter to be distributed will be dropped, showing the assent of each such municipality to the proposed activity.

Upon receipt of a timely and proper application, the Commission will issue authority for a flight for the purpose aforesaid if, in the Commission's opinion, the pilot is competent and duly qualified, proper permission has been obtained from the municipalities concerned, the proposed flight will not violate any law, rule, or regulation of the United States or its agencies, or of the State of West Virginia or its agencies, and the proposed flight will not endanger public safety.

§171-1-11. Air Shows.

Any air show or exhibition held or conducted within this State shall be conducted in conformance with the following rules:

- (a) Positive control over participants and spectators will be established and maintained.
- (b) Aircraft will not be flown over, toward, or less than 500 feet horizontally from, the grandstand or spectators.
- (c) Adequate provision will be made for safe operation of aircraft on the ground.
- (d) Adequate first aid and fire fighting equipment will be immediately available.
- (e) Adequate means will be provided to inform all aircraft operating in the area in which activities of the show are to be carried on, that an air show is in progress.
- (f) Adequate provision will be made for the arrival and departure, at the field at which the air show is being conducted, of both participating and nonparticipating aircraft.
- (g) The skill and experience requirements for all contestants entered in the published events shall be satisfactory to the approving agent.
- (h) Flight operations conducted at the air show shall be limited to the events listed on the original CAA air show application form.
- (i) Permission must be obtained from the Commission for any activity at the air show involving a departure from or conflict with any applicable state aviation regulation.

(k) CAA approved type certificated parachutes shall be used on all exhibition jumps.

(l) Acrobatics on the airways may be conducted only after thorough coordination with, and prior permission from the local air traffic control. No flight shall be conducted at any altitude that will conflict with or create a hazard to other aircraft using the airway.

(m) All or any part of any air show may, for just cause, be canceled at any time by the CAA supervising agent or the West Virginia State Director of Aeronautics.

(n) All flight activity shall be conducted under VFR weather conditions.

NOTE: CAA Policy. It is the policy of the CAA in carrying out the Federal-Aid Airport Program to participate in the construction or improvement of only one (1) runway or strip on new or existing Class I (Personal) airports.

On all other classes of airports, the construction of an additional runway or runways, will be approved only where required to handle the volume of traffic and must be nonintersecting with other runways by being placed either parallel or diverging. More than one (1) existing runway on airports larger than Class I may be improved if desirable from operating requirements other than wind coverage.

§171-1-12. Landing Fees.

Landing fees for aircraft weighing less than six thousand five hundred (6,500) pounds at any airport in West Virginia is prohibited.

NOTE: This regulation does not preclude charges to visiting general aviation aircraft, or locally based aircraft for handling, chocking, tying down, storage, etc; provided these services are rendered.

§171-1-13. Traffic Patterns.

Aircraft grossing twelve thousand five hundred (12,500) pounds or more shall conform to a circling pattern prior to landing at uncontrolled airports in West Virginia. This pattern shall be to the left, or counterclockwise, unless otherwise indicated by standard visual markings on the ground.

NOTE: This regulation is not intended to supplement, affect, or in any way change the normal rectangular pattern prescribed for light aircraft.

§171-1-14. Registration Of Pilots.

All pilots residing in West Virginia or employed by business firms, corporations, or private individuals in this State, shall register with the West Virginia State Aeronautics Commission.

Registration will be conducted on an annual basis effective July 1, 1964, and the Aeronautics Commission shall furnish each pilot an appropriate registration form.

Current records shall be maintained in the West Virginia State Aeronautics Commission Office and it shall be the responsibility of each pilot to notify the Commission of changes to his license, change of address, revocation by the Federal Aviation Agency, expiration of medical certificate or changes for any other reason.

§171-1-15. Registration Of Aircraft.

All aircraft based in West Virginia, owned or leased by private citizens, flying clubs, business firms, corporations, flight schools, aircraft dealers, political divisions or subdivisions, shall register each aircraft with the West Virginia State Aeronautics Commission.

Aircraft owned or operated by any of the aforementioned individuals, clubs, firms, corporations, schools, dealers, or divisions, hangaring their aircraft in other states shall also register.

Registration will be conducted on an annual basis effective January 1, 1965, on forms provided by the Aeronautics Commission.

It shall be the responsibility of each owner, co-owner, or lessee to request appropriate registration forms from the Aeronautics Commission and to promptly advise the Aeronautics Commission, of any change in ownership, transfer, destruction or retirement of aircraft. Records shall be maintained in the West Virginia Aeronautics Commission's Office reflecting any changes.

Summary of Attachments

1. Copy of current Chapter 29, Article 2A showing repeal of Sections 15 & 16.
2. Copy of prior Sections 15 & 16
3. Enacting Clause of SB 141 repealing Sections 15 & 16 and amending Chapter 29, Article 2A.

§ 29-2A-11f

MISCELLANEOUS BOARDS AND OFFICERS

right to demand that a sample or specimen of his or her blood, breath or urine be taken within two hours from and after the time of arrest and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to such arrested person forthwith upon demand. (1995, c. 3.)

§ 29-2A-11f. Fee for withdrawing blood sample and making urine test; payment of fees.

A reasonable fee shall be allowed to the person withdrawing a blood sample or administering a urine test at the request and direction of a law-enforcement officer in accordance with the provisions of this article. If the person whose blood sample was withdrawn or whose urine was tested was arrested and charged with a violation of section eleven [§ 29-2A-11] of this article, the county having venue of such charge shall pay said fee and if said person is subsequently convicted of such charge, such fee shall be taxed as a part of the costs of the criminal proceeding and shall be paid, notwithstanding any other provision of this code to the contrary, into the general fund of said county. (1995, c. 3.)

§ 29-2A-12. Operation of aircraft at low altitude or in careless and reckless manner; penalty.

ALR references. — Liability of owner of wires, poles, or structures struck by aircraft for resulting injury or damage, 49 ALR5th 659.

§§ 29-2A-15, 29-2A-16.

Repealed by Acts 1995, c. 3.

Editor's notes. — Former §§ 29-2A-15 and 29-2A-16 (enacted by Acts 1947, c. 12) concerning licensing of air schools and aeronautics instructors and certificates for airport sites, were repealed by Acts 1995, c. 3.

§ 29-2A-19. Federal-state joint hearings; reciprocal services; accident reporting.

ALR references. — Liability of owner of wires, poles, or structures struck by aircraft for resulting injury or damage, 49 ALR5th 659.

§ 29-2A-20. Enforcement of aeronautics laws.

It shall be the duty of the commission, its members, the director, officers and such employees of the commission as may be designated by it, and every state and municipal officer charged with the enforcement of state and municipal laws, to enforce and assist in the enforcement of this article and of all rules and orders issued pursuant thereto and of all other laws of this state relating to aeronautics; and in that connection each of the aforesaid persons is authorized to inspect and examine at reasonable hours any aircraft, the credentials of any

airman or other person engaged in state or of the United States to evidencing his or her authority or premises and the buildings and other navigation facilities or other aeronautics. The commission is authorized to enforce the provisions of this article and the rule of injunction or other legal process in accordance with section 3. (1995, c. 3.)

Effect of amendment of 1995. — The amendment, in the first paragraph, deleted "air navigation facilities", deleted the last sentence, inserted gender-neutral language.

§ 29-2A-22. Commission of hearings.

Every order of the commission requiring compliance with certain requirements shall set forth the reasons for the approval shall set forth the reasons for the requirements to be met before approval granted or restored or the order by the commission pursuant to the order upon the persons affected either by the order section one [§ 56-2-1], article two, where notice and opportunity for hearing under this article, the order of the commission shall specify a time when and place where the hearing shall be held and the time within which he may request a hearing effective upon the expiration of the order hearing unless a hearing is held on the order which case the order shall be suspended, disaffirm or modify such order after the order affected. (1947, c. 12; 1995, c. 3.)

Effect of amendment of 1995. — The amendment twice deleted "certificate or license" following "approval"; substituted "certification".

§§ 29-2B-1 to 29-2B-15.

Repealed by Acts 1995, c. 3.

Editor's notes. — Former §§ 29-2B-1 to 29-2B-15 (enacted by Acts 1969 c. 18 and amended by Acts 1973, c. 50 and Acts 1994,

§ 29-2A-15. Licensing of air schools and aeronautics instructors.

The commission is authorized to provide for the licensing of air schools and of aeronautics instructors. For each license of an air school it may charge a fee not exceeding twenty dollars, and for each license of an aeronautics instructor it may charge a fee not exceeding five dollars.

The commission may refuse to issue or may suspend or revoke temporarily or permanently, any license of an air school or aeronautics instructor required pursuant to this section when it shall reasonably determine, upon notice and opportunity for hearing, that such air school or aeronautics instructor is not qualified. In arriving at such determination the commission shall consider, among other things, whether the school or instructor has violated the provisions of any statute of this state or the United States relating to aeronautics or the rules and regulations promulgated pursuant thereto, or whether the aeronautics instructor or any aeronautics instructor of the air school is addicted to the use of narcotics or other habit-forming drugs or to the excessive use of intoxicating liquor or has made any false statements of a material nature in connection with an application to the commission under this article, or has been guilty of conduct dangerous to the public safety or to the safety of those engaged in aeronautics.

It shall be unlawful for a person to operate an air school or for any aeronautics instructor to give instruction in aeronautics without an appropriate license as may be duly required by rule or regulation promulgated under the provisions of this section: Provided further, That it shall be unlawful for any aeronautics instructor to give instruction in flying unless such instructor has an appropriate effective instructor's rating, certificate, permit or license as a flight instructor issued by the United States. (1947, c. 12.)

§ 29-2A-16. Certificates for airport sites; licensing airports.

The commission is authorized to provide for the approval of airport sites and the issuance of certificates of such approvals. No charge shall be made for any such approval, and certificates of such an approval shall be issued without charge to all persons requesting them. Upon the promulgation of a rule or regulation providing for such approvals, any municipality or person desiring or planning to construct or establish an airport may, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the commission for approval of the site. The commission shall with reasonable dispatch grant approval of a site if it is satisfied: (1) That the site is adequate for the proposed airport; (2) that such proposed airport, if constructed or established, will conform to minimum standards of safety; (3) that safe air traffic patterns could be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity; and (4) that such airport is reasonably necessary to provide adequate aeronautics facilities for the public or any person having need therefor. An approval of a site may be granted subject to any reasonable conditions which the commis-

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sion may deem necessary to effectuate the purposes of this section, and shall remain in effect, unless sooner revoked by the commission, until a license for an airport located on the approved site has been issued pursuant to the provisions of this section. The commission may, after notice and opportunity for hearing to holders of certificates of approval, revoke such approval when it shall reasonably determine (1) that there has been an abandonment of the site as an airport site, or (2) that there has been a failure within the time prescribed, or if no time was prescribed, within a reasonable time, to develop the site as an airport or to comply with the conditions of the approval, or (3) that because of change of physical, legal or other conditions or circumstances the site is no longer usable and necessary for the aeronautical purposes for which the approval was granted.

The commission is authorized to provide for the licensing of airports and the periodic renewal of such licenses. It may charge license fees not exceeding twenty-five dollars for each original license, and not exceeding ten dollars for each renewal thereof. Upon the promulgation of a rule or regulation providing for such licensing, the commission shall with reasonable dispatch, upon receipt of an application for an original license and the payment of the duly required fee therefor, issue an appropriate license if a certificate of approval has previously been issued and has not been cancelled by the commission, or, where no such certificate has been issued if it is satisfied that the airport conforms to the standards established herein for the issuance of a certificate of approval. All licenses shall be renewable at such reasonable periodic intervals and upon payment of such fees as may be prescribed by the commission. Licenses and renewals thereof may be issued subject to any reasonable conditions that the commission may deem necessary to effectuate the purposes of this section. The commission may, after notice and opportunity for hearing to the licensee, revoke or suspend any license or renewal thereof, or refuse to issue a renewal, when it shall reasonably determine (1) that there has been an abandonment of the airport as such, or (2) that there has been a failure to comply with the conditions of the license or renewal thereof, or (3) that because of change of physical, legal or other conditions or circumstances the airport has become either unsafe or unusable for the aeronautical purposes for which the license or renewal was issued. It shall be unlawful for any municipality, or officer or employee thereof, or any person to operate an airport without an appropriate license for such, as may be duly required by rule or regulation issued pursuant to this section.

Every licensed airport in this state shall employ an airport manager, who shall be licensed by the commission upon application showing that the person applying for such license is qualified by training and experience to properly perform the duties of airport manager.

In connection with the grant of approval of a proposed airport site or the issuance of an airport license the commission may, on its own motion or upon the request of an affected or interested person, hold a hearing open to the public as provided in section seventeen [§ 29-2A-17] of this article: Provided, however, That the provisions of this section shall not apply to airports owned or operated by the United States. The commission may, from time to time, to

the extent necessary, exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or regulation promulgated under this section from any requirement of such a rule or regulation, if it finds that the application of such rule, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety. (1947, c. 12.)

ALR references. — Airport operator's rights as to uses of adjoining land interfering with aircraft operation, 25 ALR2d 1454.

Validity, construction and operation of airport operator's grant of exclusive or discriminatory privilege or concession, 40 ALR2d 1060.

§ 29-2A-17. Investigations; hearings; power to subpoena witnesses; self-incrimination.

The commission, any member thereof, the director or any officer or employee of the commission designated by it, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this article and the rules, regulations and orders of the commission, and concerning accidents in aeronautics within this state. Hearings shall be open to the public and, except as provided in section twenty-two [§ 29-2A-22], shall be held upon such call or notice as the commission shall deem advisable. Each member of the commission, the director and every officer or employee of the commission designated by it to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the commission or its authorized representative may invoke the aid of any circuit court of this state. The court shall thereupon order such person to comply with the requirements of the subpoena order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Subject to the foregoing provision, the commission may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigations and hearings. (1947, c. 12.)

Rules of Civil Procedure. — As to subpoenas, see R.C.P., Rule 45.

§ 29-2A-18

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§ 29-2A-19

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CHAPTER 3

(Com. Sub. for S. B. 141—By Senator Yoder)

[Passed March 9, 1995; in effect ninety days from passage.
Became law without Governor's signature.]

AN ACT to repeal sections fifteen and sixteen, article two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal article two-b of said chapter; to amend and reenact section eighteen, article fifteen, chapter eleven of said code; to amend and reenact sections one, two, three, four, five, seven, eleven, twenty and twenty-two, article two-a, chapter twenty-nine of said code; and to further amend said article by adding thereto six new sections, designated sections eleven-a, eleven-b, eleven-c, eleven-d, eleven-e and eleven-f, all relating to the state aeronautics commission generally; repealing the commission's authority relating to the licensing of air schools and aeronautics instructors, the certification of airport sites and the licensing of airports; repealing provisions relating to the regulation of weather modification; purposes for which the commission may use taxes on aircraft fuel; revising definitions relating to aeronautics; amending definitions; replacing the state road commissioner with the secretary of transportation as a member of the commission; eliminating the commission's general supervision of airports, air schools and aeronautics; eliminating the commission's authority to classify airports; eliminating the commission's rule-making authority regarding air schools, the classification of airports and the enforcement of the federal air commerce act; legislative rules; commission authority regarding investments with board of investments; commission seal; qualification of and limitations on director of aeronautics; eliminating police powers of and enforcement of laws by commission, agents and employees; removing designation of commission as agent regarding federal moneys in certain circumstances; applications for and receipts by political subdivisions for federal aid; prohibiting the operation of aircraft while under the influence of alcohol, controlled substances or drugs; implied consent to test; tests for alcohol which may be administered; use of test results;

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ty-six of the code of dred thirty-one, as follows:

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certain immunity from liability incident to administering tests; interpretation and use of chemical test; right to demand test; fee for withdrawing blood sample and administering urine test; payment for fees; commission authority to inspect; enforcement of aeronautics laws; commission orders, notices and hearings; method of mailing notices; and criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections fifteen and sixteen, article two-a, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article two-b of said chapter be repealed; that sections one, two, three, four, five, seven, eleven, twenty and twenty-two, article two-a of said chapter be amended and reenacted; and that said article be further amended by adding thereto six new sections, designated sections eleven-a, eleven-b, eleven-c, eleven-d, eleven-e and eleven-f, all to read as follows:

ARTICLE 2A. STATE AERONAUTICS COMMISSION.

- §29-2A-1. Definitions.
- §29-2A-2. Creation and membership.
- §29-2A-3. Powers and duties of commission.
- §29-2A-4. Organization of commission; meetings; reports; offices.
- §29-2A-5. Director of aeronautics; appointment, qualifications, compensation, powers and duties; administrative and other assistants.
- §29-2A-7. Federal aid.
- §29-2A-11. Operation of aircraft while under influence of alcohol, controlled substances or drugs; criminal penalties.
- §29-2A-11a. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.
- §29-2A-11b. Preliminary analysis of breath to determine alcoholic content of blood.
- §29-2A-11c. How blood test administered; additional test at option of person tested; use of test results; certain immunity from liability incident to administering test.
- §29-2A-11d. Interpretation and use of chemical test.
- §29-2A-11e. Right to demand test.
- §29-2A-11f. Fee for withdrawing blood sample and making urine test; payment of fees.
- §29-2A-20. Enforcement of aeronautics laws.
- §29-2A-22. Commission orders, notices and opportunity for hearings.

§29-2A-1. Definitions.

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