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MEMORANDUM

TO: Joel Jundt
FROM: Dustin W. DeBoer
DATE: March 7, 2024
RE: March 21, 2024 Commission Meeting

The Department of Transportation requests that the Aeronautics Commission set a hearing date to consider amendments to the following administrative rules:

- 70:02:04:01 Definitions
- 70:02:04:02 Airport, landing field, or heliport must receive approval or license to be used or operated -- Application procedure -- Inspection
- 70:02:04:03 Types of license or approvals -- Period of approval or license
- 70:02:04:04 Responsibility of licensees
- 70:02:04:05 Criteria for revocation of and refusal to renew licenses
- 70:02:04:06 Airports, landing fields and heliports to be located to avoid conflicts and overlaps
- 70:02:04:07 Minimum requirements for nonrestricted licensing or approval of airports and landing fields
- 70:02:04:08 Airports approved prior to July 24, 1974, to be noted as approved under previous standards
- 70:02:04:09 Minimum requirements for heliports
- 70:02:04:10 Field marking requirements for airports, landing fields and heliports licensed for other than restricted use
- 70:02:04:11 Wind indicators required
- 70:02:04:12 Aircraft at rest to be visible from any point on landing area -- Exception
- 70:02:04:13 Airports required to control access
- 70:02:04:14 Minimum requirements for restricted use landing fields
- 70:02:04:15 Minimum requirements for public airports
- 70:02:04:17 Permits required for use of temporary fields -- Method of application -- Time element
Inspection by Aeronautics Commission -- Refusal by commission upon abuse of license
- 70:02:04:18 Private airports for personal use only to be located to avoid conflicts -- Registration required
- 70:02:04:19 Waiver of rules by commission authorized
- 70:02:04:20 Conduct of appeals from rules governing airport licensing

I enclose a copy of the proposed rule revisions with this memo. Thank you.

DWD
 Enclosure

CHAPTER 70:02:04
AIRPORT LICENSING

Section

- 70:02:04:01** **Definitions.**
- 70:02:04:02** **Airport, landing field, or heliport must receive ~~approval or~~ license or permit to be used or operated -- Application procedure -- Inspection.**
- 70:02:04:03** **Types of license or ~~approvals~~ permit -- Period of ~~approval or~~ license or permit.**
- 70:02:04:04** **Responsibility of licensees or permittees.**
- 70:02:04:05** **Criteria for revocation of and refusal to renew licenses.**
- 70:02:04:06** **Airports, landing fields and heliports to be located to avoid conflicts and overlaps, Repealed.**
- 70:02:04:07** **Minimum requirements for nonrestricted licensing ~~or approval~~ of airports and landing fields.**
- 70:02:04:08** **Airports approved prior to July 24, 1974, to be noted as approved under previous standards, Repealed.**
- 70:02:04:09** **Minimum requirements for heliports.**
- 70:02:04:10** **Field marking requirements for airports, landing fields and heliports licensed for other than restricted use.**
- 70:02:04:11** **Wind indicators required.**
- 70:02:04:12** **Aircraft at rest to be visible from any point on landing area -- Exception.**
- 70:02:04:13** **Airports required to control access.**
- 70:02:04:14** **Minimum requirements for restricted use landing fields.**

- 70:02:04:15 Minimum requirements for public airports.
- 70:02:04:16 Repealed.
- 70:02:04:17 Permits required for use of temporary fields -- Method of application --
Time element -- Inspection by ~~Aeronautics Commission~~ the Department of Transportation
-- Refusal by commission upon abuse of license.
- 70:02:04:18 Private airports for personal use only to be located to avoid conflicts –
Registration Permit required.
- 70:02:04:19 Waiver of rules by commission authorized, Repealed.
- 70:02:04:20 Conduct of appeals from rules governing airport licensing or permitting.

70:02:04:01. Definitions. Words defined in SDCL 50-1-1, ~~50-10-1 and 50-13-1~~ have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1) "Heliport," any area of land, water, or structure used or intended to be used for the landing and taking off of helicopters;

(2) "Landing area," that portion of an airport, landing field, or heliport used for the landing and taking off of aircraft;

(3) "Licensee," the person, firm, agency or political subdivision to whom a license is issued by the commission;

(4) "License," the certificate issued by the commission authorizing the operation of the facility stated ~~thereon~~ on the certificate;

(5) "Permit," a temporary certificate issued by the commission authorizing the operation of the facility stated on the certificate;

~~(5)(6)~~ "Publicly owned airport," any airport that the portion of the airport used for the landing and taking off of aircraft is owned by a governmental body, political subdivision, public agency, or other public corporation;

~~(6)(7)~~ "Public airport," any airport, whether publicly or privately owned, that is open to and available for use by the flying public;

~~(7)(8)~~ "Private airport," any airport that is open to and available for use only by the owner and the owner's invitees;

~~(8)(9)~~ "Restricted use landing field," a landing area approved by the commission for restricted use only as stated in the ~~approval permit~~ or to be used in case of emergency.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 29 SDR 160, effective June 2, 2003; 39 SDR 37, effective September 12, 2012.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

Airport, landing field, or heliport must receive ~~approval or~~ license or permit to be used or operated -- Application procedure -- Inspection. Before any public airport, landing field, or heliport, or any private airport, landing field, or heliport located within ~~two~~ six miles of the nearest boundary of any approved public airport, is used or operated in the state of South Dakota, the airport, landing field, or heliport shall be licensed or ~~approved~~ permitted by the commission. The owner or operator shall make an application to the commission through the South Dakota Department of Transportation for the ~~approval or~~ licensing or permitting of the airport, landing field, or heliport. Upon receipt of a completed application for a public airport, public heliport, or restricted use landing field, the commission shall cause the airport, landing field, or heliport to be inspected. After a review of the application

and the completion of any required inspection, if the proposed airport, landing field, or heliport is found to meet the minimum requirements as set forth in chapter 70:02:04 and the location of the proposed airport, landing field, or heliport is deemed not to be dangerous for aircraft operations or will not hinder the health, welfare, and safety of the public, the commission shall approve ~~or~~ the license or permit for the airport, landing field, or heliport.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 29 SDR 160, effective June 2, 2003; 39 SDR 37, effective September 12, 2012.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:03. Types of license or ~~approvals~~ permit -- Period of ~~approval or~~ license or permit. Types of ~~license or approvals~~ licenses and permits are:

- (1) For ~~approval~~ private airport permit: restricted use landing field; temporary field ~~permit~~; private airport;
- (2) For public airport license: ~~private~~ commercial airport; ~~or~~ heliport; or public use airport or heliport.

Each ~~approval or~~ license or permit issued by the commission is effective for a period of one year, except for the one-time ~~approval~~ permit issued for a private airport pursuant to § 70:02:04:18.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 29 SDR 160, effective June 2, 2003.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:04. Responsibility of licensee or permittee. The licensee ~~or permittee~~ shall have the following responsibilities:

- (1) Enforcing the restrictions, if any, placed ~~thereon~~ on the license or permit by the commission;
- (2) Prescribing and posting a traffic pattern for the field ~~with the assistance and approval of the commission~~. Traffic pattern must be posted within 60 days after the issuance of a license ~~or approval permit~~;
- (3) Supervising or causing the supervision of all aeronautical activity in ~~connection with and in conformity~~ compliance with all terms, conditions and restrictions with the prescribed limitations of the ~~licensed field~~ license or permit;
- (4) Maintaining the landing area so as to permit safe operation of aircraft at all times;
- (5) Requesting a renewal of the license or permit at least ~~30~~ thirty days prior to the expiration date shown on the license or permit; and
- (6) Designating a person who shall be called the airport or heliport manager; such person shall be responsible to see that the rules prescribed in chapter 70:02:04 are complied with and shall promptly notify the commission ~~by the fastest means possible~~ of any changes in the conditions of the facilities.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:05. Criteria for revocation of and refusal to renew licenses. The commission may, after notice and opportunity for hearing to the licensee or permittee, revoke any license or permit or renewal thereof, or refuse to issue a renewal when it shall reasonably determine:

(1) There has been an abandonment of the airport, heliport or restricted use landing area as such;

(2) There has been a failure to comply with the conditions of the license or renewal thereof; or

(3) Because of change of physical or legal conditions, or circumstances, the airport, heliport or restricted use landing field has become unsafe or unusable for the aeronautical purpose for which the license or renewal was issued.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:06. Airports, landing fields and heliports to be located to avoid conflicts and overlaps. ~~All airports, landing fields and heliports shall be so located and spaced one from the other that their flight pattern and approach areas as established or approved by the commission will not in any way conflict or overlap~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~.

Law Implemented: SDCL ~~50-2-2.1~~.

70:02:04:07. Minimum requirements for nonrestricted licensing ~~or approval~~ of airports and landing fields. All airports and landing fields, other than for restricted use only, to be eligible for ~~approval or licensing~~ a license must meet the following requirements:

(1) Each end of the runway shall have a minimum unobstructed approach zone providing a glide angle of at least 20:1. This approach zone shall be trapezoidal in shape, beginning at a point ~~200~~ two hundred feet beyond the end of the runway and extending out ~~5,000~~ five thousand

feet along the extended centerline. This zone is ~~250~~ two hundred fifty feet wide at the inner edge and ~~1,250~~ one thousand two hundred fifty feet wide at the outer edge. The approach zone shall have a minimum clearance of ~~15~~ fifteen feet over all highways, ~~17~~ seventeen feet over interstate highways and ~~23~~ twenty-three feet over railroads;

(2) No objects shall penetrate the primary or transitional surfaces. The primary surface is a horizontal plane, ~~250~~ two hundred fifty feet wide, ~~125~~ one hundred twenty-five feet on either side of the landing area centerline and at the same elevation as the centerline. The transitional surface is an inclined plane with a slope of 7:1, being ~~7~~ seven feet horizontal for each one foot vertical, beginning at the outer edge of the primary surface and extending upward and outward;

(3) Runway lengths listed in subdivisions 70:02:04:07(5) to (7), inclusive must be increased for site elevation at the rate of ~~7~~ seven percent for each ~~1,000~~ one thousand feet of elevation above mean sea level; five tenths of one percent for each degree which the mean maximum temperature of the hottest month exceeds the standard temperature of ~~60~~ sixty degrees Fahrenheit; and ~~20~~ twenty percent for each one percent of effective gradient;

(4) The entire landing area must be suitable for safe operation of aircraft under normal weather conditions; and

(5) ~~Airports approved by the commission prior to August 25, 1964, shall have at least one serviceable landing area of 1,600 feet in length and 100 feet usable width;~~

~~(6) Airports approved between August 25, 1964, and July 24, 1974, inclusive, shall have at least one serviceable landing area 1,800 feet in length, 100 feet usable width;~~

~~(7)~~ Airports established or requesting a license approval after July 24, 1974, shall have at least one serviceable runway ~~2,100~~ two thousand one hundred feet in length, ~~50~~ fifty feet usable width. For landing fields or turf strips the length shall be increased by ~~400~~ four hundred feet after

the necessary corrections have been added and the usable width increased to ~~100~~ one hundred feet.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:08. Airports approved prior to July 24, 1974, to be noted as approved under previous standards. ~~All airports approved for public use prior to July 24, 1974, which do not meet the minimum length requirements established by this chapter shall remain in the directory of approved airports but shall be specifically noted as being approved under the previously adopted minimum standards~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~.

Law Implemented: SDCL ~~50-2-2.1~~.

70:02:04:09. Minimum requirements for heliports. All classifications of heliports must meet the following minimum requirements:

(1) For a single pad heliport there must be a touchdown pad at least ~~50~~ fifty feet in diameter with a safety zone, free of all obstructions, extending outward for a distance of at least ~~50~~ fifty feet beyond the outer edge of the touchdown pad;

(2) For a multiple pad heliport, touchdown pads should be arranged in appropriate multiples having a minimum edge to edge distance of ~~100~~ one hundred feet between safety zones as described in subdivision (1) of this section; and

(3) Approaches to permit landings and takeoffs in the prevailing wind direction shall have a slope of 10:1, or better, and the side slope in all other directions shall be 5:1, or better, both slopes extending outward until a height equal to the minimum enroute altitude is reached;

~~(4) Heliports on building roofs may be licensed if the roof is of sufficient size and if adequate evidence is shown that the roof will support a concentrated load equivalent to three quarters of the maximum gross weight of the critical helicopter to be used on any one square foot.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:10. Field marking requirements for airports, landing fields and heliports licensed for other than restricted use. All airports, landing fields and heliports licensed for other than restricted use shall have the landing area clearly marked ~~so as~~ to be readily discernible from the air and from the ground as required by the commission, and in addition:

(1) Any part of the landing area temporarily unsafe for aircraft operations shall be clearly marked by day with red flags not less than ~~18~~ eighteen inches square so placed as to show the boundaries of the ~~dangerous~~ unsafe areas;

(2) By night, if the airport is equipped with field, runway or strip lighting, ~~dangerous~~ unsafe areas shall be clearly marked with either red electric lights, with water proof fittings, or with methods approved by the commission; and

(3) When an airport is marked as a closed facility there shall be a yellow cross placed at the wind indicator or inside the segmented circle, if one exists, and when any ~~one~~ landing area or portion thereof is marked as being closed there shall be a yellow cross placed at both ends of said

landing area or closed portion. Each of the four legs of the cross shall be a minimum of ~~15~~ fifteen feet in length and ~~4~~ four feet in width and yellow in color.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:11. Wind indicators required. All airports, landing fields or heliports shall be required to have at least one wind direction indicator ~~of the type and kind approved by the commission, so located~~ with a location that shows the ~~to show a~~ true indication of the wind on the landing area and readily visible to aircraft. If the airport, landing field or heliport is lighted for night operations, the wind indicator shall be equipped with adequate lighting.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:12. Aircraft at rest to be visible from any point on landing area --
Exception. Except for those airports having adequate traffic control, each landing area shall be oriented in such position that an aircraft at rest at any point ~~thereon~~ on the landing area or areas is visible from any other point on the landing area or areas.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:13. Airports required to control access. Each airport shall be adequately fenced ~~so as~~ to control the access of unauthorized persons, automobiles, equipment, or livestock onto the areas designated as landing areas, taxiways or tie down areas. The minimum property

width required for approval shall be ~~200 two hundred~~ feet on either side of the landing area centerline. Fences shall not be located closer than ~~200 two hundred~~ feet from the centerline of the landing area.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:14. Minimum requirements for restricted use landing fields. Restricted use landing fields shall be of sufficient size and condition with adequate approach clearances to accommodate the type of aircraft specified to be used ~~thereon on the landing fields, and the use intended thereof.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:15. Minimum requirements for public airports. Public airports shall meet all the requirements as specified in §§ 70:02:04:07 to 70:02:04:13, inclusive, and in addition shall:

- (1) Have tie down anchors ~~and chains~~ for at least three transit aircraft;
- (2) Have a suitable area for parking automobiles, adequately marked off and fenced to prevent ~~dangerous~~ overrunning of landing area and aircraft parking area by automobiles; and
- (3) Have suitable aircraft parking area;
- ~~(4) Have a telephone at the airport or within reasonable distance of the airport.~~

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:17. Permits required for use of temporary fields -- Method of application --

Time element -- Inspection by ~~Aeronautics Commission~~ Department of Transportation --

Refusal by commission upon abuse of license. Before the owner of any aircraft uses, or propose to use, any area of land or water for temporary operations to, in any nature, transport or load and unload passengers whatsoever, the owner shall apply to the ~~Aeronautics Commission~~ South Dakota Department of Transportation for a temporary field permit upon forms provided for that purpose by the ~~Aeronautics Commission~~ the Department. The application must be received by the ~~commission~~ the Department at least ~~15~~ fifteen days before the date the applicant wished to use the area. The area shall then be inspected by the ~~commission~~ the Department and if found to be of a size and nature that is safe for use by the type of aircraft specified in the application to be used in the operations and to have clear and unobstructed approaches to the temporary landing area, the commission may issue a temporary field permit, not to exceed ~~60~~ sixty days. However, if the ~~Aeronautics Commission~~ commission at any time determines that the temporary field permit privilege is being abused by one or a group of owners of aircraft, it shall refuse the granting of temporary field permits in the interest of the health, welfare, and safety of the public.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:18. Private airports for personal use only to be located to avoid conflicts –

~~Approval Permit~~ required. With the exception of §§ 70:02:04:02 and 70:02:004:06, ~~The only sections in~~ this chapter does not that apply to airports and landing fields established and used for personal use only ~~are §§ 70:02:04:02 and 70:02:04:06~~. The commission may issue a

one-time ~~approval~~ permit for any airport or landing field established and used for personal use only if an appropriate application has been submitted pursuant to § 70:02:04:02 and the proposed airport or landing field meets the requirements of ~~§ 70:02:04:06~~ this chapter.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 29 SDR 160, effective June 2, 2003.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-5-1; 50-5-3.

70:02:04:19. Waiver of rules by commission authorized. ~~The Aeronautics Commission may waive any portion of the rules contained in this chapter~~ Repealed.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~.

Law Implemented: SDCL ~~50-2-2.1~~.

70:02:04:20. Conduct of appeals from rules governing airport licensing or permitting. Any person adversely affected by the rules in this chapter may appeal in the manner prescribed under SDCL ~~50-2-27, 50-2-28 and 50-2-29~~ 50-2-32.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987.

General Authority: SDCL ~~50-2-2.1~~ 50-5-3.

Law Implemented: SDCL ~~50-2-2.1~~ 50-2-32.