



# Advisory Circular

**Subject: Aerial Applicators Regulations for Non-Certificated Operators (Flying Farmers)**

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## **1.0 INTRODUCTION**

- (1) This Advisory Circular (AC) is provided for information and guidance purposes. It describes an example of an acceptable means, but not the only means, of demonstrating compliance with regulations and standards. This AC on its own does not change, create, amend or permit deviations from regulatory requirements, nor does it establish minimum standards.

### **1.1 Purpose**

- (1) The purpose of this AC is to clarify the applicability of *Canadian Aviation Regulations* (CARs) for flight operations when conducting aerial application and is provided for flying farmers, commercial operators and Transport Canada Civil Aviation (TCCA) inspectors.

### **1.2 Applicability**

- (1) This document applies to any person involved with or conducting aerial application.

### **1.3 Description of Changes**

- (1) Not applicable.

## **2.0 REFERENCES AND REQUIREMENTS**

### **2.1 Reference Documents**

- (1) It is intended that the following reference materials be used in conjunction with this document:
  - (a) *Aeronautics Act* (R.S., 1985, c. A-2);
  - (b) *Canadian Aviation Regulations*;
  - (c) Staff Instruction (SI) 600-001, Issue 01, 2014-05-07 — *Agricultural Aeroplane Operations – Exemption from Subsection 605.03(1)(b) and Section 602.07 of the Canadian Aviation Regulations*;
  - (d) Aviation Safety Letter Transport Canada Publication (TP) 185 Issue 1/2010 — *Flying for Money*;
  - (e) Aviation Safety Letter TP 185, Issue 4/2010 – *Flying Farmers — Who Falls Within the Definition of a “Farmer” and When Does the Concept of “Hire or Reward” Apply?*
  - (f) Transportation Appeal Tribunal of Canada (TATC) Docket: C-3336-33 / MOT File No. RAP5504-60784 P/B.

*Note: This Advisory Circular supplements common practices and internal document SI 600-001 issue 01 Agricultural Aeroplane Operations – Exemption from Subsection 605.03(1)(b) and Section 602.07 of the CARs.*

### **2.2 Cancelled Documents**

- (1) Not applicable.
- (2) By default, it is understood that the publication of a new issue of a document automatically renders any earlier issues of the same document null and void.

## 2.3 Definitions and Abbreviations

- (1) The following **definitions** are used in this document:
  - (a) **CAAA** means: Canadian Aerial Applicators Association. This group represents a large portion of commercial operators and some flying farmers.
  - (b) **Farmer** means: a person whose primary source of income is derived from the tillage of the soil, the raising of livestock or poultry, dairy farming, the growth of grain, fruit, vegetables or tobacco, or any other operation of a similar nature. [Section 700.01 of the *Canadian Aviation Regulations* (CARs)]
  - (c) **Flying Farmer** means: This is a term, not defined in CARs, used to describe a pilot who owns their own agricultural spray aircraft and conducts aerial application on their own farmland.
  - (d) **Hire or reward** means: any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected by any person for the use of an aircraft. [Subsection 3.(1) of the *Aeronautics Act* ]

## 3.0 BACKGROUND

- (1) Transport Canada Civil Aviation (TCCA) and Canadian Aerial Applicator Association (CAAA) have discussed issues and concerns of the CAAA and their membership regarding regulations and the continued safe operations of aerial applicators in the past 10 to 14 years. In that time TCCA has also responded to several individual inquiries from commercial aerial applicators operators and flying farmers. While the majority of these issues have been answered satisfactorily some questions continue to cause misunderstandings to both flying farmers and commercial aerial applicators.
- (2) A principal issue has been that some flying farmers have conducted commercial aerial application due to misunderstanding or improper interpretation of regulations. This circular is to provide amplification of the regulations and their applicability to flying farmers with regards to aerial application.

## 4.0 REGULATIONS AMPLIFICATION

- (1) Subsection 401.28(5) of the *Canadian Aviation Regulations* (CARs) states the following:
  - (5) *The holder of a private pilot licence who is a farmer, as defined in section 700.01 may conduct aerial work involving the dispersal of products for agricultural purposes for hire or reward if the holder:*
    - (a) *does not hold an air operator certificate;*
    - (b) *owns the aircraft that is used to disperse the products;*
    - (c) *has at least 150 hours of flight time as pilot-in-command, including at least 25 hours of flight time in the type of aircraft being used;*
    - (d) *ensures that no more than the minimum number of crew members needed to disperse the products is on board the aircraft;*
    - (e) *ensures that the dispersal takes place within 25 miles of the centre of the holder's farm; and*
    - (f) *ensures that no dispersal is conducted within a control zone without the authority of the appropriate air traffic control unit.*

*Note: Subsection 401.28(5) of the CARs does not specify a minimum or maximum amount for the reimbursement. The fees charged are to be agreed upon by the parties involved.*

- (2) Subsection 700.02(3) of the CARs states the following:
  - (3) *A person who does not hold an air operator certificate may conduct aerial work involving the dispersal of products if:*
    - (a) *the person is a farmer;*
    - (b) *the person owns the aircraft that is used to disperse the products;*
    - (c) *the products are dispersed for agricultural purposes; and*
    - (d) *the dispersal of the products takes place within 25 miles of the centre of the person's farm.*
- (3) Distance between Airstrip used by flying farmer and his land:
  - (a) In accordance with subsections 401.28(5) and 700.02(3) of the CARs, a flying farmer may spray his/her own farm(s) or another farmers farm, as long as the field(s) being sprayed is located within 25 miles of the centre of the flying farmer's farm.
  - (b) The regulations do not stipulate that the "farm" must be contiguous, as long as the dispersal of products can be conducted within 25 miles of the flying farmer's farm.
- (4) Number of aircraft a flying farmer can operate:
  - (a) There is no imposed limit to the number of aircraft a flying farmer operates so long as they operate them in compliance with the definitions and regulations noted above relating to reimbursement.
- (5) Registration of aircraft:
  - (a) Aircraft may be registered to the farmer or the farm or entity owned by the farmer.
- (6) Flying farmer advertising for Aerial Application:
  - (a) Advertising aerial application is not acceptable for flying farmers. This is reserved for a commercial enterprise requiring an Air Operator Certificate (AOC).
- (7) Flying farmer pilot working for an Commercial Aerial Applicator:
  - (a) A farmer pilot who holds a private pilot licence cannot work for hire as a pilot.
  - (b) A farmer who holds commercial pilot licence may subcontract himself or herself to a commercial operator for aerial application. If the farmer also uses his or her own aircraft the AOC holder must include that aircraft on their AOC. Any payments received would be considered for the work as a pilot under contract to the employer and not as a farmer.
- (8) Pesticide Application License Requirements:
  - (a) Agricultural use of pesticides is governed by provincial regulations. Each province oversees the regulatory structure regarding the safety of dangerous goods used in agriculture to ensure public safety.

## **5.0 SUMMARY**

- (1) Canadian farmers have a unique opportunity to use their own aircraft for aerial application purposes on their farms. The CARs also make allowance for farmers who own aerial application aircraft to provide limited aerial application services to other farmers within 25 miles for hire or reward.
- (2) The conduct of aerial application beyond those described above for revenue must be done so in accordance with commercial flight operations as described in Part VII of the CARs.

- (3) TCCA provides safety oversight of the civil aviation transportation system and takes all the necessary steps to prevent the introduction or continuation of unsafe practices that could compromise safety. The department will continue to take appropriate enforcement action when cases of non-compliance arise.

## **6.0 INFORMATION MANAGEMENT**

- (1) Not applicable.

## **7.0 DOCUMENT HISTORY**

- (1) Not applicable.

## **8.0 CONTACT OFFICE**

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