U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

JUL 19 2010

Ms. Renee Gregory, Director of Operations
Al's Air Service
3473 N. Shepardsville Rd.
Ovid, MI 48866

Dear Ms. Gregory:

This letter is in response to your January 5, 2010 request for interpretation regarding whether your proposed operations would comply with the requirements for agricultural operations over congested areas of 14 C.F.R. § 137.53(c)(2).

You propose to conduct operations for the purpose of gypsy moth eradication using Air Tractor AT-400 and AT-500 aircraft. The aircraft are equipped, under a supplemental type certificate, with dispensers hard mounted under each wing that carry and dispense the pheromone material used in the eradication operations. When fully loaded, each dispenser weighs 450 pounds, meaning an additional 900 pounds per aircraft. You state that these dispensers cannot be jettisoned. Your letter indicates that your aircraft also are equipped with hopper tanks that are certified to hold 3200 or 4000 pounds of agricultural material, depending on the aircraft. You also indicate that these integral hopper tanks are empty when your company performs gypsy moth eradication operations.

Section 137.53(c)(2) requires that aircraft, other than helicopters, "must be equipped with a device capable of jettisoning at least one-half of the aircraft's maximum authorized load of agricultural material within 45 seconds" as a prerequisite to conducting agricultural operations over congested areas. If the agricultural load is jettisonable by "releasing the tank or hopper as a unit, there must be a means to prevent inadvertent release by the pilot or other crewmember." § 137.53(c)(2). This regulation was implemented to ensure that pilots of agricultural aircraft could reduce the load on their aircraft in the event of an emergency. *See* Exemption No. 7827 (July 1, 2002); Exemption No. 6470 (June 26, 1996).

Pursuant to the facts in your letter, when conducting gypsy moth eradication operations, the aircraft would be operated with its hopper tanks empty. Therefore, even when accounting for the additional weight of the hard-mounted dispensing tanks under each wing, your aircraft would be carrying less than one-half of its maximum authorized load of agricultural material throughout the entire operation. It follows that, if an emergency occurs, your aircraft would be able to perform at least as well as it would have had you needed to jettison one-half of the aircraft's maximum allowable agricultural load. Accordingly, although the gypsy moth eradication load does not meet the jettisoning requirement of § 137.53(c)(2),

you would not be prohibited by the rule from conducting these operations over congested areas.

This response was prepared by Dean Griffith, Attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the General Aviation and Commercial Division of Flight Standards Service. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200