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

Office of the Chief Counsel

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

SEP 15 2010

Mr. Terry L. Sharp
Agri-Tech Aviation, Inc.
P.O. Box 291
Indianola, IA 50125

Dear Mr. Sharp:

This letter is in response to your January 18, 2010 letter to FAA's Des Moines FSDO pertaining to supervision of part 137 commercial agricultural operations. Your letter describes three scenarios, the common element of each being that parties in one state are obtaining agricultural aviation services from a certificate holder in a different state. You also expressed a general concern that many aerial application operations that fall into such scenarios are "being conducted outside the scope and intent" of part 137 and receive little or no supervision from the certificate holder.

The FAA does not place geographical restrictions on part 137 commercial operators. To conduct part 137 commercial agricultural operations, an entity must obtain a certificate, use pilots that have met the knowledge and skill requirements, operate aircraft that satisfy the part 137 requirements, and conduct operations pursuant to the rules in part 137. *See* §§ 137.1-.77. Provided that an operator meets these requirements, it may conduct operations anywhere in the United States. Likewise, the tenets regarding operational control do not change based upon the locale of a part 137 commercial operation.

The FAA allows part 137 certificate holders to designate a supervisor for agricultural aircraft operations. A supervisor must pass tests on the knowledge of agricultural materials and their application and demonstrate agricultural aircraft flying skills. *See* §§ 137.41(b), 137.19(e); 30 Fed. Reg. 8104 (June 24, 1965). The FAA does not specify the duties to be performed by a supervisor other than, if a certificate holder has designated a supervisor, a pilot in command must have demonstrated that he or she has met the knowledge and skill requirements to the supervisor. *See* § 137.41(c).

The FAA's agricultural operations regulations do not require supervision from a "local" certificate holder when work is performed by an out-of-state certificate holder, nor do they require a certificate holder's supervisor to be present when its pilots are performing operations outside of its home state. Some states, such as Iowa, place additional limitations on agricultural aircraft operations. To that end, we reiterate that agricultural operators are not relieved of the "responsibility of complying with any State or local laws enacted pursuant to health and police powers relating to the dispensing of agricultural materials and

chemicals." 30 Fed. Reg. 8104. Responsibility for the enforcement of such rules lies with the appropriate State or local authorities and is not the responsibility of the FAA. *See* id.

The fact that the FAA does not require supervision of part 137 commercial agricultural operations by a "local" certificate holder, or on-site supervisor, does not relieve pilots from the responsibility to be familiar with weather conditions, geography, and other factors that may affect the operation that he or she will conduct. *See* § 91.3 (the pilot in command is responsible for the operation of the aircraft); § 91.103 ("Each pilot in command shall, before beginning a flight, become familiar with all available information concerning that flight.").

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