

Update: (NPA) #2013-014

CARAC FOCUS GROUP MARCH 31/APRIL, 2015

On March 31st and April 1st the Civil Aviation Regulatory Advisory Council (CARAC) convened a focus group to discuss the Notice of Proposed Amendment; (NPA) to the Canadian Aviation Regulations relating to Responsible Aerodrome Development.

Nav Canada, COPA and most of the other major aviation associations in Canada were in attendance. COPA had two representatives at the table: Dan Cornell (*a COPA member and owner of an amphibious C185*); and myself. Dan was COPA's legal counsel for more than 20 years and represented COPA in the Supreme Court of Canada, that resulted in the 2010 decision that confirmed issues relating to airports and aerodromes are under federal jurisdiction.

COPA and CARAC were most fortunate to have Dan volunteer his time as he is probably the most learned legal expert on aviation law in Canada.

In December 2014 the Aeronautics act was changed to include:

“4.31 (1) The Minister may make an order prohibiting the development or expansion of a given aerodrome or any change to the operation of a given aerodrome, if, in the Minister's opinion, the proposed development, expansion or change is likely to adversely affect aviation safety or is not in the public interest.

And

.....consultations that must be carried out by the proponent of an aerodrome before its development or by the operator of an aerodrome before its expansion or any change to its operation;”

These new provisions in the act were triggered by a number of negative actions, or perceived actions, by a few aerodrome operators that took advantage of the Supreme Court decision.

The current CARAC is taking place to amend the CARS to include the consultation process that must take place, in certain circumstances, when planning to install a new aerodrome or make certain changes to an existing aerodrome.

These regulations will be put in place and the NPA, as written, will have a dramatic negative effect on the development of new and existing aerodromes and airports in Canada.

The good news is that during the two day meetings, significant modifications were proposed and accepted, in principal, by Transport Canada. However, these recommendations still have to pass the test of the legal drafting mechanisms and also be approved by the Minister.

At the time of writing this article, the minutes/reports of the focus group have not yet been produced and when they are, there will only be a very short time provided to make comment on them before the drafts are placed in the mechanism that will produce the Gazette 1 version by this coming June.

Once the proposed regulations have been posted in Gazette 1 it is very difficult to make any significant changes. That is why COPA's and the other associations, input was, and is, so critical given the short time frame relating to producing these new regulations.

On the day before the meetings, I at COPA's office and had the opportunity to review approximately three hundred and fifty letters that had been submitted to the CARAC and/or to the Minister relating to the NPA. About 80 per cent of these letters followed a COPA suggested form letter and the other 20 per cent were individual letters that were well thought out and provided excellent points of view on the necessity and importance of aerodromes in Canada and their benefits to the Canadian aviation transportation system, the economy and the individual's freedom to fly.

No matter which format they came in they are an important indicator to our legislators that there is a real concern to ensure that the proposed regulations do not have a negative impact on aviation in Canada. At the time of writing, the number of communications to CARAC are believed to be over 550! Thank you to all of you that took the time to write.

Contrary to previous reports the original NPA was not rescinded and the timetable for going to Gazette 1 is still June of 2015, therefore the timeline for getting these changes right, is very short.

What more can be done now? You can contact: the Minister; a cabinet minister; and/or your MP; and ask them to ensure that the recommendations that were agreed on through the CARAC process be implemented when considering the new regulations.

COPA has struck an NPA Committee to monitor this ongoing issue. The Committee is meeting regularly via teleconference and the members of the committee are:

Trekker Armstrong, Chairman of the Board and Director for Alberta & NWT

Jean Messier, Eastern Vice Chair and Director for Quebec

Patrick Gilligan, Vice-President of Operations in Ottawa

Tim Cole, Director for BC & YT

The NPA Committee will post updates, on the COPA website, COPA e Flight and in this newspaper.