CHAPTER 6-02-02
AERIAL APPLICATORS

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6-02-02-01. General provisions.

The following air traffic rules, orders, regulations, procedures, knowledge of agricultural chemicals, and minimum standards governing aerial application are necessary for the public safety, the safety of those engaged in such activities, and for protection of property, are adopted by the North Dakota aeronautics commission, after a public hearing, pursuant to authority set forth in North Dakota Century Code section 2-05-18.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18, 2-05-19, 2-05-20

6-02-02-01.1. Definitions.

As used in this chapter, unless otherwise required:

1. "Bona fide lease" means a lease whereby the lessee has a reasonable interest in the land under lease for a period not less than the current growing, grazing, or harvesting season.

2. "Chief pilot" means an individual, who meets the qualifications of this chapter, that operates an aircraft used for aerial application who is identified on the aerial applicator's license and is responsible for the supervision of other pilots listed on an aerial applicator's license.

3. "Operator" means a person that obtains an aerial applicator's license from the North Dakota aeronautics commission.

4. "Pilot" means an individual, who meets the qualifications of this chapter, who operates an aircraft used for aerial application who is identified on an aerial applicator's license.

History: Effective July 1, 2022.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-02. Application for aerial applicator license - Fees.

No person may engage in the activity or business of aerial application without first obtaining an aerial applicator's license from the North Dakota aeronautics commission. The application for an aerial applicator's license shall include a fee as established by the commission and shall be completed and filed on forms furnished by the commission.

History: Amended effective June 1, 2002; September 1, 2005; April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-03. Inspection and duration of aerial applicator's license.

North Dakota aerial applicator's license shall be presented for inspection upon request of any authorized representative of the state of North Dakota or of the federal government or municipal official charged with the duty of enforcing local, state, or federal laws or regulations. The pilot of any aircraft performing aerial application shall carry proof of the North Dakota aerial applicator's licensure at all times. Each aerial applicator's license issued shall expire December thirty-first of the year of issuance and may be revoked at any time for cause.

History: Amended effective April 1, 2016; July 1, 2022.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-04. Commercial pilot safety standards for manned aircraft.

The following qualifications and requirements are applicable to aerial application using a manned aircraft:

1. **General.** The following rules and regulations relating to pilot experiences and skill have been adopted in the interest of the pilot and public safety and the general public interest.

2. **Chief pilot.** All operators or contractors employing one or more commercial pilots for the purpose of conducting aerial application by aircraft in this state shall employ at least one chief pilot who shall have the qualifications set forth in this section.

3. **Chief pilot qualifications.** A chief pilot must produce evidence of a commercial federal aviation administration license with a minimum of seven hundred fifty flight hours as pilot in command, of which a minimum of two hundred fifty flight hours as pilot in command must be in the class of aircraft in which the sprayer or duster equipment will be installed and used for aerial application. In addition, the chief pilot must have at least two years apprentice commercial aerial application experience as pilot in command and has accumulated at least two hundred hours total aerial application flying time as an employee, supervised by a North Dakota chief pilot who holds a federal aviation administration part 137 certificate, who may recommend the applicant and certify the applicant's qualifications for the operational level sought, or certified to by an affidavit of the applicant, subject to investigation by the aeronautics commission, which may approve or deny the application.

4. **Pilot employees of contractor.** An operator or aerial applicator or contractor in the business of aerial application that employs a chief pilot, meeting the qualifications of this section, may

employ pilots for aerial application with a minimum of a valid federal aviation administration commercial license, except that a license will be revoked or denied to an operator or contractor who employs an unqualified aerial application pilot who has been designated as unqualified to conduct aerial application in North Dakota, for just cause, by the aeronautics commission. Pilots supervised and employed under the supervision of the chief pilot, who have never aerial application before, must be given a minimum of ten hours of simulated application time under supervision of the chief pilot before they are permitted to conduct aerial application as pilot in command, and in addition, must be given ten hours of direct ground-supervised solo flight at operational loads while conducting aerial application. The chief pilot shall document and maintain written records verifying the pilot has fulfilled the flight requirements.

5. **Chief pilot based within the state of North Dakota required.** It is the responsibility of the chief pilot to determine the amount of supervision a pilot requires. The chief pilot must be familiar with the area in which the supervised pilot or pilots are flying and be able to contact each pilot daily as needed. Pilots with less than two years' experience and less than two hundred fifty hours of actual aerial application must be under the direct, personal supervision of a chief pilot and must be based out of the same airport as the airport in which the chief pilot is operating. The chief pilot or the chief pilot's designated representative of every aerial application operation licensed by the aeronautics commission must be located within North Dakota during the time of actual aerial application operations and the chief pilot shall be responsible for the actions of all pilots under the chief pilot's supervision.

6. **Commercial-rated pilots who graduate from an agricultural flying school**. Commercial-rated pilots who graduate from a qualified agricultural flying and ground school shall be supervised by the chief pilot for ten hours of direct ground-supervised solo flight at operational loads while conducting aerial application. The chief pilot shall document and maintain written records verifying the pilot has fulfilled the requirements of this chapter.

7. **Pesticide certification.** A pilot who is identified on the aerial applicator's license must hold an air/ground core pesticide certification from the North Dakota state university extension pesticide certification and training program.

History: Amended effective July 1, 1998; April 1, 2016; July 1, 2022.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-04.1. Aerial applicator safety instruction.

For the safety and protection of persons and property, each operator of a business engaged in aerial application must receive the information provided by the annual aerial applicator safety meeting or attend approved training by the North Dakota aeronautics commission. A chief pilot employed by an operator may attend the meeting in place of the operator. The meeting will be held in the first calendar quarter of each year and address aviation safety, business and operation security, and chemical storage. The commission will provide substitute instruction for operators and chef pilots who for good cause are unable to attend the annual safety meeting. An application for a license for aerial spraying under section 6-02-02-02 will not be approved by the commission unless the applicant's operator or chief pilot has attended the annual safety meeting in the calendar quarter preceding the date of the application or received substitute instruction or information provided by the commission.

History: Effective June 1, 2002; amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-04.2. Safety standards for unmanned aircraft.

The following qualifications and requirements are applicable to aerial application using an unmanned aircraft:

1. **General.** The following rules and regulations relating to the use of unmanned aircraft for aerial application have been adopted in the interest of public safety and public interest.

2. **Maximum weight.** The maximum operating weight of an unmanned aircraft while conducting aerial application is five hundred pounds.

3. **Operator.** An operator of an unmanned aircraft used for aerial application must hold a federal aviation administration remote pilot certificate and have acquired the federal aviation administration exemptions required to perform the specified aerial application services.

4. **Chief pilot.** All operators or contractors employing one or more unmanned aircraft pilots for the purpose of conducting aerial application by an unmanned aircraft in this state shall employ at least one chief pilot. A chief pilot must meet the pilot qualifications of this subsection.

5. **Chief pilot responsibilities.** It is the responsibility of the chief pilot to determine the amount of supervision a pilot requires and ensure each pilot is able to contact the chief pilot during aerial application operations.

6. **Pilot qualifications.** A pilot who is identified on the aerial applicator's license must hold a federal aviation administration remote pilot certificate. Before conducting solo flights, pilots must have attended an approved training program or have received at least ten hours of direct ground-supervised solo flight at operational loads while conducting aerial application. Supervision must be provided by a pilot who has conducted a minimum of twenty-five hours of solo flight at operational loads while conducting aerial application. The operator shall document and maintain written records verifying the pilot has fulfilled the flight requirements.

7. **Pesticide certification.** A pilot who is identified on the aerial applicator's license must hold an air/ground core pesticide certification from the North Dakota state university extension pesticide certification and training program.

History: Effective July 1, 2022.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-05. Private pilot aerial sprayer who obtains a commercial federal aviation administration license.

Repealed effective April 1, 2016.

6-02-02-06. Private pilot's safety standards for aerial application on one's own property or land farmed under a bona fide lease.

A private pilot operating a manned aircraft with a valid federal aviation administration private pilot's rating, federal aviation administration part 137 certificate, and an air/ground core pesticide certification from the North Dakota state university extension pesticide certification and training program may aerial crop spray, dust, seed, fertilize, or insecticide the pilot's own land or land farmed by the pilot under a bona fide lease, provided:

1. That the applicant submits satisfactory evidence that the applicant has a minimum of seven hundred fifty hours flying experience as pilot in command, of which a minimum of two hundred fifty flying hours must be in the class of aircraft in which the sprayer or duster will be installed

for agricultural aerial application and has produced acceptable evidence of a minimum of ten hours simulated spraying time under the supervision of a chief pilot before such pilot is permitted to conduct aerial application as pilot in command, and in addition, such private pilot must obtain ten hours of direct ground-supervised solo flight at operational loads while aerial applying given by a chief pilot, with a commercial federal aviation administration license, who has at least two hundred hours of logged aerial applying time as pilot in command.

2. That the applicant sets forth, in writing, upon the application the legal description of the land owned or land farmed under a bona fide lease, including range, township, section, and quarter, or parts and apportionments pertaining thereto, or both.

3. That the applicant's services are not offered to others for hire, compensation, remuneration, or trade for other services.

All other rules and regulations set forth in this chapter governing commercial aerial application standards, including aircraft registration, aerial applicator's license, equipment standards, chemical knowledge and procedures, registration as a certified agricultural chemical aerial applicator, and reports to the aeronautics commission shall govern the operations of all private pilots licensed by the aeronautics commission for aerial application of their own land or land operated under a bona fide lease.

History: Amended effective April 1, 2016; July 1, 2022.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-07. Grandfather rights.

Repealed effective July 1, 2022.

6-02-02-08. Registration as certified agricultural chemical applicator requirements.

Repealed effective June 1, 2002.

6-02-02-09. Registration and license of aircraft and equipment standards.

1. **Registration.** All aircraft operated in aerial application requiring a North Dakota aerial applicator's license shall be registered with the North Dakota aeronautics commission prior to actual use of the aircraft in this state and prior to the issuance of an aerial applicator's license. Annual registration fees shall be in accordance with the schedule set forth in North Dakota Century Code sections 2-05-11 and 2-05-18 and shall be paid in full in advance.

2. **Equipment standards.** Each aircraft used for aerial application shall be satisfactorily equipped with a positive shutoff device at each discharge nozzle (manually controlled shutoff valves, spring-loaded valves, or ball checks will be acceptable), which will absolutely prevent the dissemination of material on any portion of the terrain over which flight is made other than the area being treated or sprayed. Each aircraft must be satisfactorily equipped with a shutoff between hopper and discharge orifice. The entire aircraft must be in good usable condition and free from any obvious points of leakage.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-10. Application knowledge and procedures.

Repealed effective April 1, 2016.

6-02-02-11. Aerial application in vicinity of turkey farms.

No aerial applicator shall conduct aerial application on or over farm lands adjoining or adjacent to turkey farms unless the applicator has coordinated the aerial application with the owner or operator of the turkey farm and with the farmer for which the aerial application is to be done.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-12. Reports available to aeronautics commission.

The operator, owner, manager, pilot, or supervisor in charge of the aerial application shall maintain a record of each aerial application job which must be available to officials of the aeronautics commission on demand. Copies of such reports must be kept by the licensee for a period of three years from the date of aerial application. Upon request, these reports shall be submitted to the aeronautics commission provided that nonresident aerial applicators shall file copies of such reports with the aeronautics commission.

The report must be the same as, or contain the same information, as the records required for the state department of agriculture.

The licensee shall file with the aeronautics commission not later than December first of the year of application a summary of the total number acres treated by category such as for weed control, insect control, fertilizer application, fungicide application, etc. Failure of any licensed aerial applicator to furnish copies of such reports upon request of the aeronautics commission, in a reasonable time, shall be grounds for suspension of an aerial applicator's state license.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-13. Unsettled claims and court judgments.

Evidence of prior unsettled claims or unsatisfied judgments for damages resulting from aerial application operations may be just cause for denial of a state aerial applicator's license or revocation of an existing license, provided that the aeronautics commission may, at its discretion, require a bond or cash bond in an amount equal to the estimated claim and reasonable court costs from such applicator before a license will be issued.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-14. License reciprocity between states - Nonresidents.

Repealed effective April 1, 2016.

6-02-02-15. Shoulder harness must be installed and in use by pilot.

Repealed effective April 1, 2016.

6-02-02-16. Airworthiness certificate required.

Repealed effective April 1, 2016.

6-02-02-17. Crash helmet required for safety of pilots.

Repealed effective April 1, 2016.

6-02-02-18. Revocation of aerial applicator license - Refusal of license.

The North Dakota aeronautics commission or its duly appointed director reserves the right to revoke or refuse to issue a state-issued aerial applicator's license for just cause, or for violation of any rule, regulation, procedure, or standard set forth in this chapter after a hearing has been held, provided that on the basis of proper cause shown, the director or the aeronautics commission may suspend a license or refuse to issue a license until such time as a hearing has been held.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18

6-02-02-19. Penalty for violation of the rules and regulations.

Any person violating a provision of this section is guilty of a class B misdemeanor.

History: Amended effective April 1, 2016.
General Authority: NDCC 2-05-18
Law Implemented: NDCC 2-05-18, 2-05-19, 2-05-20