

April 21, 2020

Transport Canada provided much needed guidance to Canadian drone operators on March 26, 2020 in a new, dedicated drone chapter in the Aeronautical Information Manual (the "AIM").

## What is the AIM?

Generally, the AIM provides pilots and aircraft personnel with a single source document outlining applicable regulations, rules and procedures for Canadian aircraft operations. In addition to restating most of the technical requirements, it breathes life into the text of the applicable regulations and rules to assist pilots in conducting safe operations. The AIM is publicly available to all operators.

While Part IX of the *Canadian Aviation Regulations* (CARs) continues to contain most regulatory requirements applicable to drones operated within visual-line-of-sight, the drone chapter of the AIM provides clarity and additional, practical information essential for safe and compliant operations in Canada. Most helpfully, Transport Canada has now provided views of the spirit behind the text of Part IX of the CARs.

## What does the drone chapter of the AIM cover?

In a detailed manner, the AIM addresses the key operational regulations that permit operators to conduct both basic and advanced operations safely (with helpful references to the CARs). Additionally, the AIM now includes direction from Transport Canada on a number of operational issues not previously addressed in any fulsome way by any regulation or government-issued direction.

While the entire chapter should be reviewed by drone pilots, the most interesting guidance for drone pilots relates to the following areas:

### a) General flight safety guidance

The AIM acknowledges that drone pilots are "legitimate airspace users but are new entrants into a complex environment." <sup>1</sup> Drone pilots are urged to take their role in the aviation environment seriously and to continuously take all "necessary steps" to ensure flight safety risks are mitigated.

The AIM notes that drone pilots should keep a "good safety margin" in all situations, but especially in advanced operations when flying closer to members of the public. If a drone pilot becomes aware of any situation while in flight that compromises aviation or individual safety, he or she must immediately cease operations.<sup>2</sup> The AIM reminds drone pilots of the applicable fines should they fail to take such precautions, with individual penalties of up to \$1,000 and corporate penalties of up to \$5,000.

## b) Micro drone rules

There was previously little commentary on the rules applicable to micro drones. Micro drone pilots are not subject to Subpart 1 of Part IX of the CARs and therefore do not need to register or obtain a certificate to fly. Despite the fact that micro drones remain relatively unregulated, the AIM clarifies that operators must adhere to CAR 900.06 to ensure “they do not operate their [drone] in such a reckless or negligent manner as to endanger or be likely to endanger aviation safety or the safety of any person.”<sup>3</sup>

## c) Privacy laws to be respected

Drone operators must abide by Canada’s privacy laws, even though they are not detailed in the CARs. The AIM helpfully includes some instruction on abiding by privacy laws (which are in addition to guidance provided by Transport Canada in its Privacy guidelines for drone users) and the rules and regulations may apply to drones and their operators, including the *Privacy Act*, the *Personal Information Protection and Electronic Documents Act* and other applicable provincial privacy legislation. The AIM asks that pilots be “respectful of people’s privacy” and advise any individuals in the surrounding area of the purpose of their operations and clarifies that drone pilots must additionally obtain individual consent for the recording of any private information.<sup>4</sup>

For more discussion about privacy and drone operations, check out an earlier post on Drone Law Canada [here](#).

## d) Radio monitoring by drone operators

The CARs do not require a drone operator to monitor or communicate with other aircraft or air traffic control using a radio (even when conducting advanced operations in controlled airspace). The AIM provides new guidance on the use of radios by drone pilots for the monitoring of nearby manned aircrafts. Drone pilots are now encouraged to access radios for monitoring air traffic frequencies and minimizing risk in non-standard flight operations. Radio access can additionally alert drone pilots to nearby traffic and potential airborne hazards by listening to information obtained from radio calls between other aircraft.

## e) When bystanders are considered “part of the operation”

Transport Canada has provided some clarity in the AIM that allows operators to better determine which bystanders can be considered “part of the operation” and who are not (thereby allowing for more accurate observance of horizontal distance requirements during operations).

Individuals will be “part of the operation” if they (1) have been briefed on the drone hazard and (2) have the opportunity to leave the drone operation site should they feel uncomfortable. Such individuals include: construction site or mineworkers, film crews, or wedding guests and others involved in a wedding. People inside vehicles or buildings are not included in the 30-metre horizontal distance rule.<sup>6</sup>

## f) Advertised events

Drone pilots must obtain Special Flight Operations Certificates (SFOC) when operating less than 100 feet away from the boundaries of an advertised event.<sup>7</sup> The CARs definition of “advertised event” includes an outdoor event that is advertised to the general public, such as a concert, performance, festival, market, or sporting event.<sup>8</sup> The AIM provides important and practical guidance on how to determine the boundaries of advertised events (including those segregated from the public by a fence or where there is no clear fence/boundary, such as firework displays, skiing events and triathlons), making it easier for drone pilots to ensure they are compliant with their safety obligations when operating nearby.

## g) Record keeping details

The AIM outlines the applicable record keeping requirements for drone owners, including particulars on potential Ministry of Transportation requests. Drone owners must keep a record of the names of the pilots and crew members involved in each flight and, in respect of the system, the time of each flight or series of flights. Records must also be kept on the particulars of any mandatory action, maintenance, modification or report performed on the system.<sup>9</sup>

## h) Tethered drone usage

Guidance is provided within the AIM on Transport Canada's interpretation of the applicability of the CARs to tethered drones. As tethered drones are by nature prevented from being maneuvered or navigated, they do not meet the CARs definition of a drone<sup>10</sup> and are therefore not subject to regulation under Part IX of the CARs.

Tethered drones must still adhere to the rules and obstruction requirements of CAR Standard 621 Chapter 11, which require, among other things, that tethered objects have markers and lighting when in use.<sup>11</sup>

## Conclusion

Overall, the drone chapter of the AIM acknowledges the interplay between the various rules and regulations applicable to drone use in Canada and provides clear direction from Transport Canada on its interpretation of such provisions. Drone pilots must review the AIM in conjunction with all applicable regulations when implementing their own safety practices and procedures.

Organizations establishing their own drone programs, policies and procedures are well advised to review the AIM to ensure their operations are compliant with both the text and spirit of the CARs.

For more information, please contact Kathryn McCulloch or any other member of Dentons' Aviation team .

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1. AIM, 3.2.4 Flight Safety, page 435. ↩
  2. CARs 901.16.↩
  3. AIM, 2.0 Micro Remotely Piloted Aircraft System (mRPAS) – Less than 250g, page 431. ↩
  4. AIM, 1.0 General Information, page 431.↩
  5. AIM, 3.2.6.3, page 437.↩
  6. AIM, 3.2.14 Horizontal Distance, page 441. ↩
  7. CARs 901.41 and 90.301 f; AIM, s. 3.2.29.2, page 449.↩
  8. CARs at 901.41(2).↩
  9. AIM, 3.2.36, page 451.↩
  10. Section 101.01 of the CARs defines a drone (or an "RPA") as a "navigable aircraft, other than a balloon, rocket, or kite that is operated by a pilot who is not on board."↩
  11. AIM, 3.2.38 Tether Drone, page 452. ↩

## Your Key Contacts



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