



**Modernizing the Canadian Aviation Regulations
Submission by the Union of Canadian Transportation Employees
to Transport Canada
December 17, 2018**

The Union of Canadian Transportation Employees (UCTE) believes that Canadians have a right to a safe, innovative and efficient transportation system in this country. Every day UCTE members work with regulators, airport operators and private businesses to ensure this happens. The safety and security of the travelling public is our number one priority.

We are concerned about Transport Canada's use of language for this request for input. By asking '*What specific irritants do you have with the Canadian Aviation Regulations and why?*' suggests a bias in favour of removing perceived obstacles to operators or private businesses. What may be an irritant to some may be a necessity for overall safety for others. Transport Canada needs to keep its focus on its number one priority as a regulator - to put the safety and security of the travelling public as well as those who work in aviation above all else.

While Transport Canada states in the preamble to this review that its goal is to update and improve CARs to strengthen safety, in the next line it notes that '*the review will modernize the Canadian Aviation Regulations, and respond to the needs and priorities of the aviation industry*'. Also in past meetings with Transport Canada to clarify regulatory concerns, we had been advised that the department needs to consider the financial viability of airports when reviewing the regulations. As the regulator, Transport Canada should take the lead as part of its regulatory responsibilities to ensure that safety always trumps financial considerations. This should not only be reflected in principle but implemented into practice within the CARs regime. Again Transport Canada must remember that its responsibility is that of regulator and not industry promoter.

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In response to the question posed, UCTE offers a number of suggestions regarding specific sections of CARs, particularly as they pertain to airport rescue and fire fighting. These issues were originally discussed in 2015 with Transport Canada management. One irritant is with regards to the reduction of airport rescue and fire fighting capacity under special and temporary conditions in Section 303.07 (4) Critical Category for Fire Fighting and Section 303.10 (1) – Temporary Exemption. Currently the regulation states:



303.07 (4) Critical Category for Fire Fighting

If the operator of a designated airport anticipates a period of one or more hours of movements of aircraft of a lower aircraft category for firefighting only, the operator may reduce the critical category for fire fighting to the highest aircraft category for firefighting anticipated for that period if the operator

(a) documents the anticipated situation; and

(b) notifies the appropriate air traffic control unit or flight service station of the reduced critical category for fire fighting for publication in a NOTAM.

303.10 (1) – Temporary Exemption

Subject to subsection (2), the operator of a designated airport or of a participating airport or aerodrome does not have to meet the requirements referred to in section 303.09 where those requirements cannot be met because of a personnel shortage or unserviceable equipment at the airport or aerodrome caused by circumstances beyond the control of its operator and a notification of the reduced level of aircraft firefighting service at the airport or aerodrome has been given to the appropriate air traffic control unit or flight service station for publication in a NOTAM.

We are concerned that staff shortages in airport rescue and fire fighting may be permitted under the guise of not replacing employees who are on vacation or sick leave. In meeting with the regulator, we have been assured that since vacations are planned this is not beyond the operator's control. However, there have been a number of situations in which the operator is not taking steps to ensure compliance. We believe that the language in the regulation needs to be strengthened in order to ensure that this practice is stopped.

In addition, we have concerns about the usage of diversions and recovery flights in the calculation of critical category for airport rescue and fire fighting under Section 303.07 (1). We understand from Transport Canada that the airport has the option of requesting to the Minister that the movements not be account for in the reviews if the diverted or recovered aircrafts are of a higher category than normally scheduled. We were advised that this request does not have to be in writing and it does not become part of the mandatory public information. This is a loophole in the regulation that does not provide an accurate statistical picture on the happenings at an airport. The language in the regulation should be strengthened so that all diverted or recovered aircrafts are accounted for in the reviews.

We also have concerns regarding Section 303.13 – Minimum Personnel and Section 303.17 – Personnel Readiness. In application, there appears to be a focus on flexibility



versus safety when it comes to the minimum number of sufficient personnel that are in response posture to operate the aircraft fire fighting vehicles and apply the extinguishing agents required by section 303.09. The current practice by many Canadian Airports to have multitasked personnel who also happen to be first responders is wrong. There is a definite problem with regards to a clear definition of what “in posture” means and as a result is providing an opportunity for abuse by airport operators. In our view, this is a direct result of financial considerations taking priority over maintaining safety levels. The regulations need to clarify or strengthen the definition of such terms as in posture, the length of time firefighters need to be in posture before scheduled flights, standards for response time and ensure regular compliance.

The safety standards detailed by the current CARs offers less protection to the traveling public than regulations prescribed by the Department of National Defense for their installations and personnel, the recommendations of the National Fire Protection Association and the International Civil Aviation Organization. This is not acceptable. At minimum, CARs needs to be in line with the standards established by these other organizations.

After meeting with Transport Canada to discuss these issues in 2015, UCTE was assured of its intent to either update or develop a new advisory circular that would have provided clarification to all stakeholders. To date and to the best of our knowledge this has not been done. With this review, we hope that Transport Canada will live up to its commitment to clarify all stakeholders of the minimum requirements and expectations under CARs vis a vis fire fighting capability.

Thank you for the opportunity to present the concerns of our members before you.

Respectfully submitted,

Dave Clark
National President