

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC**

In the Matter of: Tri-State Aero, Inc.

FAA Order No. 2009-6

Docket No. CP07EA0007
FDMS No. FAA-2007-27917¹

Served: May 6, 2009

On February 28, 2008, Administrative Law Judge (ALJ) Isaac D. Benkin issued a decision finding that Tri-State Aero, Inc. (Tri-State Aero) violated 14 C.F.R. §§ 137.51² and 91.119(b),³ as the Federal Aviation Administration (FAA) had alleged. The ALJ assessed a \$2,000 civil penalty. Tri-State Aero filed an appeal from the ALJ's decision.

¹ Materials filed in the FAA Hearing Docket (except for materials filed in security cases) are also available for viewing at <http://www.regulations.gov>. For additional information, see <http://dms.dot.gov>.

² 14 C.F.R. Part 137 addresses agricultural aircraft operations. Section 137.51 regulates operations over congested areas. Section 137.51(b) provides: No person may operate an aircraft over a congested area except in accordance with the requirements of this paragraph.

(1) Prior written approval must be obtained from the appropriate official or governing body of the political subdivision over which the operations are conducted.

(2) Notice of the intended operation must be given to the public by some effective means, such as daily newspapers, radio, television or door-to-door notice.

(3) A plan for each complete operation must be submitted to, and approved by appropriate personnel of the FAA Flight Standards District Office having jurisdiction over the area where the operation is to be conducted. The plan must include consideration of obstructions to flight; the emergency landing capabilities of the aircraft to be used; and any necessary coordination with air traffic control.

³ 14 C.F.R. § 91.119(b) provides as follows:

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

...

(b) Over congested areas. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.

....

On April 20, 2009, the FAA filed a notice that the parties had settled the case. Then on April 30, 2009, the parties together filed a document stating that the FAA had withdrawn its complaint and that Tri-State Aero had withdrawn its appeal.

THEREFORE, IT IS ORDERED THAT: Tri-State Aero's appeal is dismissed.

LYNNE OSMUS
ACTING ADMINISTRATOR
Federal Aviation Administration

VICKI S. LEEMON⁴
Manager, Adjudication Branch, AGC-430

⁴ Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202 (*see* 57 Fed. Reg. 58,280 (1992)) and redelegated by the Assistant Chief Counsel for Litigation to the Manager, Adjudication Branch, by Memorandum dated August 6, 1993.