

VOLUME 3 GENERAL TECHNICAL ADMINISTRATION**CHAPTER 14 PUBLIC AIRCRAFT****Section 1 General Information on Public Aircraft Operations****3-526. GENERAL.**

A. Historically, public aircraft have been exempt from many of the requirements in FAA regulations applicable to civil aircraft, including those governing aircraft airworthiness and flightcrew certification. The passage of Public Law 103-411 (the Independent Safety Board Act Amendment of 1994) made a major change in the definition of “public aircraft.” This change caused many former public aircraft operations to become subject to the regulations governing civil aircraft and pilot certification.

B. The general purpose of the law, as reflected in legislative history, is to extend FAA regulatory oversight to some government aircraft operations. In part, Congress determined that government owned aircraft, which operate for commercial purposes or engage in transport of passengers, should be subject to the regulations applicable to civil aircraft. The law, (with certain exceptions) preserved as public aircraft operations, those related to the performance of certain governmental functions and, further, allowed public agencies to receive reimbursement from other public agencies for some operations conducted in response to significant and imminent threats. The FAA was also authorized to grant exemptions for operations whose status had changed as a result of the new law.

3-527. OPERATIONAL DEFINITIONS. The status of an aircraft as a “public aircraft” or “civil aircraft” depends on its use in government service and the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public or civil, it is more accurate to speak of the operation as public or civil. For instance, an aircraft used in the conduct of a search and rescue mission in the morning can be operating in the performance of an inherent governmental function while carrying a rescue team, and is a public aircraft operation. That same aircraft may be operating in the afternoon carrying the governor of a State to a meeting and would then lose its public aircraft status and would be considered a civil aircraft operation.

A. The term “search and rescue” is frequently used in context with the term “public aircraft.” Rescue operations are most frequently conducted with aircraft equipped with external devices that would not be authorized for operations on civil aircraft (i.e., rappelling anchors). Search operations and the subsequent rescue of persons that may be injured in remote or inaccessible areas are conducted with aircraft that do not meet the regulatory requirements for Class D external-load operations but are used in an emergency where the situation may be determined as “life-critical.” The Advisory Circular (AC) 00-1.1, Government Aircraft Operations, further defines the term as follows: search and rescue is a term meaning aircraft operations that are flown to locate people who cannot be located from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be “associated with” the search and rescue operation. The term “search and rescue” does not include routine medical evacuation of

persons due to traffic accidents and other similar incidents or hospital-to-hospital patient transfers.

B. Medical evacuation, as a general matter, is not considered a government function unless:

- 1) The nature of the operation requires the use of an aircraft with special configurations, which may not be eligible for a standard airworthiness certificate,
- 2) The victim cannot be accessed by ground transportation,
- 3) Insufficient number of properly certified and equipped civil aircraft operating under the appropriate rule, are available to complete the mission, or
- 4) Other, similar non-routine factors are present.

C. Even when the above listed factors are present, the public aircraft operator may be well advised to fully document that nature of the mission and the specific reason(s) for which a public aircraft operation was requested. In addition to providing a record of the operation, such documentation may mitigate or reduce legal liability or alleviate the threat of litigation itself.

D. Operators of government-owned aircraft that transport crewmembers or other persons (for other than commercial purposes) whose presence is required to perform, or is associated with the performance of a governmental function (i.e., firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management) would still be considered a public aircraft operation. In each case, when these persons are transported the use of the aircraft must be necessary to perform the mission.

E. The FAA has consistently held that the term “for commercial purposes” is synonymous with “compensation or hire.” It is not necessary that a flight be conducted for monetary profit to be considered to be operated for compensation or hire. Even though there is only “cost reimbursement” from one unit of government to another, this reimbursement constitutes “compensation.” If however, the units of government share a common treasury, and the transfer of funds simply between government elements or where the reimbursement is simply an accounting of transactions within the same unit of government, these operations are not considered, for commercial purposes. See Public Law 106-181 for current definition of “for commercial purposes”.

F. Government agencies may conduct both public and civil aircraft operations with the same aircraft. However, the operator will be required to maintain the aircraft in accordance with the appropriate regulations applicable to civil aircraft operations.

G. If one State agency reimburses another agency of the same State for the conduct of operations on its behalf using a State aircraft and the units share a common treasury, the operation is not considered to be “for commercial purposes.”

H. If a federal agency reimburses a State agency for conducting aircraft operations on the former's behalf using State-owned aircraft, the operation would be considered to be "for commercial purposes." Generally this operation would be a civil aircraft operation unless the federal agency certified that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat. In that case and with federal agency certification the operation would be considered a public aircraft operation.

3-528. OPERATIONAL NATURE. The status of an aircraft as public aircraft or civil aircraft depends on the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public aircraft or civil aircraft, it is more precise to speak of particular operations as public aircraft or civil aircraft in nature.

Example: An aircraft owned by a state government is used in the morning for a search and rescue mission that meets the statutory definition of public aircraft in all respects. For the search and rescue operation, the aircraft is a public aircraft. Later that same day, however, when the aircraft is used to fly the governor of the state from one meeting to another, the aircraft loses its public aircraft status and is instead a civil aircraft.

3-529. DEFINITION OF KEY TERMS. The following are various words, phrases, and clauses used in the FAA definition of a Public Aircraft.

A. "Whose Presence Is Required To Perform." This phrase means either a crewmember or a non-crewmember who will participate in carrying out the governmental function.

B. "Associated With the Performance of..." This clause connotes a non-crewmember support person who, while not essential to performance of the governmental function, is expected to contribute to the effectiveness of those whose presence is required to perform the function.

C. "A Governmental Function Such as..." Not all activities conducted by government agencies are considered "governmental functions" within the meaning of the new definition. The accepted functions include "firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management" or other comparable functions. In each instance, the use of an aircraft must be necessary to perform the function. In some cases, training flights may be considered acceptable, where the training is being performed aboard the aircraft and the aircraft is necessary for the performance of the training. The FAA will permit a government function that involves transportation of passengers to fall within the exemption only if it is "indispensable to the timely execution of a government function." The following are examples of governmental functions:

1) Firefighting. This term includes the drop of fire retardants, water, and smoke jumpers. It also includes the transport of firefighters and equipment to a fire or to a base camp from which they would be dispersed to conduct the firefighting activities.

2) Search and Rescue. Search and rescue is a term of art meaning aircraft operations that are flown to locate people who cannot be located from the ground. The term includes operations where the aircraft is indispensable to the search, or is the only feasible means of reaching the victim. Victims would be considered to be “associated with” the search and rescue operation. The term “search and rescue” does not include routine medical evacuation of persons due to traffic accidents and other similar incidents.

3) Law Enforcement. Law enforcement operations that employ hovering helicopters with searchlights and law enforcement personnel ready for immediate on-the-spot deployment are public aircraft operations. As long as reimbursement is from a common treasury, the transportation of prisoners falls within the category “law enforcement” and is a public aircraft operation.

4) Aeronautical Research. Aeronautical research (conducting flights to determine aircraft performance in various operating environments) that requires the presence on board the research aircraft of engineers and technicians who are not part of the crew is a public aircraft operation.

5) Biological and Geological Resource Management. This term means biological and geological resource management that requires the presence of scientific and technical passengers to gather information that can only be gathered by direct observation from the air.

D. Cost Reimbursement Agreement. This term means an agreement, either verbal or written, between two separate units of government, whereby one unit operates an aircraft on the others behalf and is reimbursed by the other for the cost of the operation. If the two agencies share a common treasury, the operation is not “for commercial purposes.”

E. Unit of Government. This term means a government. The singular characteristic of a unit of government in this context is its common treasury. This interpretation permits Economy Act reimbursement among federal agencies without the need for compliance with the Title 14 of the Code of Federal Regulations (14 CFR) Part 121, 14 CFR Part 125, or 14 CFR Part 135. However, should federal agencies ever receive reimbursement from outside the federal government, they would need to ensure that they are in compliance with either 14 CFR Parts 121, 125, or 135, depending on the type of aircraft operation.

F. Significant and Imminent Threat. “Significant and imminent threat to life or property (including natural resources),” means a situation in which the authority responsible for responding to the threat has determined that serious injury, death, or significant damage to property may occur before land- or water-borne assistance can be deployed to counter the threat effectively. It is not expected that FAA inspectors will challenge significant and imminent threat determinations made by units of government.

G. No Service by a Private Operator Reasonably Available. “No service by a private operator was reasonably available to meet the threat,” means that no private operator is able to deliver an aircraft capable of performing the minimum tasks by the latest time at which such aircraft would provide an effective response, as determined by the authority charged to respond

to the threat. It is not expected that FAA inspectors will challenge determinations made by units of government that no private operator was reasonably available to meet the threat.

H. . The Administrator or the Administrator's delegate may not grant an exemption to a unit of government without certifying that the FAA Safety Team (FAASTeam) program of the unit of government is "effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government."

3-530. 14 CFR PARTS 121 OR 135. Economic Authority. On April 17, 1995, the Department of Transportation (DOT) issued Order 95-4-28 pertaining to the matter of Government Aircraft Owners and Operators exemption from Title 49 of the United States Code (U.S.C.) § 41102. The Order states that "we grant an exemption from the requirements of 49 U.S.C § 41102 to the extent necessary to allow all owners and operators of government aircraft to provide not-for-hire, cost reimbursable transportation incidental to official government business." As a result Government aircraft operators are not required to receive or apply for DOT economic authority.

3-531. AIRCRAFT CERTIFICATION. Government aircraft operations that are no longer eligible for public aircraft status must meet civil airworthiness standards for certification of civil aircraft. This includes the aircraft's engines and propellers as well as the aircraft as a whole. All civil aircraft must have a current airworthiness certificate to operate in the national airspace system (NAS).

NOTE: An operator of an aircraft operated in public aircraft status for any period of time cannot obtain a standard airworthiness certificate without showing that the aircraft meets all the criteria for that airworthiness certificate as prescribed by the regulations. Making such a determination may be difficult when the aircraft has not been maintained, altered, or inspected in accordance with the regulations. To facilitate receiving a standard airworthiness certificate, the aircraft records should indicate, among other requirements, that the aircraft has been maintained according to the manufacturer's instructions, and that any modifications to the aircraft either were removed or approved by the FAA.

3-532. TYPE-CERTIFICATION. Prior to airworthiness certification, the type design must be certificated by the FAA. Title 49 United States Code (U.S.C), § 44705 (formerly § 603(c) of the FA Act of 1958) makes a type certificate a prerequisite for issuance of airworthiness certificates. Each government operator who wishes to determine the eligibility of its aircraft for civil operations must contact the responsible geographic aircraft certification office (ACO) for assistance in seeking either:

- Design approval for aircraft that has been type-certificated in the past
- Type-certification approval of aircraft that has been operated in the past under public aircraft status without a type-certificate

NOTE: For aircraft to be certificated in the restricted category, see the Aircraft Certification Service (AIR-100) for current guidance.

3-533. AIRCRAFT PREVIOUSLY TYPE-CERTIFICATED. If the aircraft was originally built to an FAA type-certificate, it will be necessary for the ACO to review the type-certificate data and make a comparison of the aircraft's current design and condition. The applicant will provide the FAA ACO with technical information necessary to assist in the following:

- Review of type design for any engineering changes or modifications
- Listing of replacement parts and technical data on the replacement parts
- Review of Airworthiness Directives (AD) that have applied
- Review of previous operating regimes
- An application of later regulatory amendments or special conditions for any changes found necessary to establish current airworthiness standards for safe design (if applicable)

NOTE: It is important that the applicant provide accurate records of any major and or minor changes necessary to establish the current design. The applicant should update all maintenance manuals as necessary. If there has been a substantial change in the type design, e.g., in the configuration, power, power limitations, speed limitations, or weight that have proven so extensive that a substantially complete investigation of compliance with the applicable regulations is required, the owner will be required to apply for a new type-certificate.

3-534. AIRCRAFT WITH NO PRIOR CERTIFICATION. It is unlikely that the FAA will be able to grant exemptions from type-certification and airworthiness requirements for aircraft that have no history of civil certification. However, if a government operator still wishes to apply, it should file an application for type-certificate on FAA Form 8110.12. The applicant must submit for approval all type design data for the aircraft, including the aircraft's engines and propellers, to the ACO in its geographic area. The application must be accompanied by a three-view drawing and available basic data so that a preliminary regulatory certification basis may be established. The applicable airworthiness certification regulations, 14 CFR Parts 23, 25, 27, 33, 35, etc., will be those that are in effect on the date of application for the certificate, unless otherwise noted in the regulations. The applicant must make all inspections and tests available to allow the FAA to conduct a complete certification compliance program, including all flight and ground tests, inspections, and test analyses necessary to determine compliance with the applicable requirements of the 14 CFRs.

3-535. AIRWORTHINESS CERTIFICATION. Before a standard airworthiness certificate can be issued, the applicant must show that:

- The aircraft conforms to its approved type design and is in condition for safe operation

- Any alterations were accomplished in accordance with an approved Supplemental Type-Certificate (STC) or other FAA-approved data, such as a field approval as reflected by the issuance of an FAA Form 337, “Major Repair or Alteration”
- All applicable ADs have been complied with concerning the aircraft in question
- If altered while in another category, the aircraft continues to meet, or has been returned to, its approved type design configuration and is in a condition for safe operation

3-536. PROCEDURES FOR OBTAINING AN AIRWORTHINESS CERTIFICATE.

Applicants interested in obtaining an airworthiness certificate must follow the following procedures.

A. Applicants are required to submit a properly executed “Application for Airworthiness,” FAA Form 8130-6, and any other documents called for in 14 CFR Parts 21 and 45 for certification. An applicant may obtain an FAA Form 8130-6 from the local manufacturing inspection district office (MIDO) or FSDO. The applicant must have completed and signed the appropriate sections prior to submitting it to the FAA.

B. The applicant is required to make available for inspection and review the aircraft, aircraft records, and any other data necessary to establish conformity to its type design.

C. The applicant must properly register the aircraft in accordance with 14 CFR Part 47, “Aircraft Registration.”

D. The applicant is also required to show that the aircraft complies with the noise standards of 14 CFR §§ 21.93(b), 1A21.183(e), 14 CFR Part 36, or 14 CFR Part 91, as appropriate. This may be demonstrated through the use of data. Also, the applicant is required to show that the aircraft’s fuel venting and exhaust emission systems comply with the requirements of 14 CFR Part 34. In addition, the applicant must show the aircraft meets the applicable passenger emergency exit requirements of 14 CFR § 21.183(f) and Special Federal Aviation Regulation (SFAR) 41.

E. During the course of the certification process the FAA will review records and documentation to the extent necessary to establish that:

1) All of the required records and documentation are provided for the aircraft; i.e., an up-to-date, approved flight manual; a current weight and balance report; equipment list; maintenance records; FAA-accepted Instructions for Continued Airworthiness (ICAW) and/or FAA-acceptance maintenance manual(s) (MM); and any other manuals required by 14 CFR §§ 21.31, 21.50, 23.1529, 25.1529, 27.1529, 29.1529, 33.4 and 35.4. These documents must be in the English language.

2) The applicant should ensure that the appropriate markings are present in accordance with 14 CFR Part 45. The applicant should make available the Type-certificated Data Sheets (TCDS), aircraft specification, or aircraft listing that is applicable.

3) The inspection records and technical data should reflect that the aircraft conforms to the type design, and all required inspections, including those provided for in 14 CFR § 21.183(d)(2), which provides for a 100 hour inspection, as described in 14 CFR § 43.15 and Appendix D. The applicant must also show that the tests the aircraft has been subjected to have been satisfactorily completed, the records completed, and reflect no unapproved design changes.

4) The aircraft has been flight tested, if required. If it has not been flight tested, the FAA may issue a special airworthiness certificate as provided for in 14 CFR §§ 21.35 and 21.191(b). The flight test must be recorded in the aircraft records in accordance with 14 CFR § 91.417(a)(2)(i) as time in service as defined in 14 CFR Part 1. Aircraft assembled by a person other than the manufacturer (e.g., a dealer or distributor) must have been assembled and, when applicable, flight tested in accordance with the manufacturer's FAA-approved procedures.

5) Large airplanes, turbojet, or turbopropeller multiengine airplanes must comply with the inspection program requirements of 14 CFR § 91.409(f) or other 14 CFRs referenced therein. A supplemental structural inspection program is also required for certain large transport category airplanes. Reference AC 91-56, "Supplemental Structural Inspection Program for Large Transport Category Airplanes."

F. Inspection of the Aircraft. Aircraft submitted by the applicant for inspection will be inspected, by an airworthiness inspector for the following:

1) The nationality and registration marks and identification plate should be displayed and marked in accordance with 14 CFR Part 45. The information presented should agree with the application for airworthiness certification.

2) All equipment, both required and optional, should be properly installed and listed in the aircraft equipment list.

3) Instruments and placards should be located in the appropriate places, installed, and properly marked in the English language.

4) All applicable ADs must have been complied with and appropriately recorded.

5) The aircraft should conform to its approved U.S. type-certificate and should be in a condition for safe operation.

6) All aircraft systems should have been satisfactorily checked for proper operation. The operation of the engine(s) and propeller(s) should be checked in accordance with the aircraft manufacturer's instructions.

G. If it is determined that the aircraft meets the requirements for the certification requested, the FAA airworthiness inspector or authorized designee will:

- Make an aircraft log book entry per paragraph 237(a) of FAA Order 8130.2C entitled “Airworthiness Certification of Aircraft and Related Products”
- Issue FAA Form 8100-2, “Standard Airworthiness Certificate”
- Complete sections V and VIII of FAA Form 8130-6, as appropriate
- Examine, review, and route the certification files as appropriate

H. If the aircraft does not meet the requirements for the certification requested and the Airworthiness Certificate is denied, the applicant will receive a letter stating the reason(s) for denying the certificate. A copy of the denial letter will be attached to the application and forwarded to the FAA Aircraft Registry to be made a part of the aircraft record.

3-537. EXEMPTIONS. The FAA Administrator has the authority, in accordance with 14 CFR Part 11, to grant exemptions to units of government, whose aircraft operations have lost their public aircraft status, if certain requirements are met. Exemptions will be granted only if it is clearly in the public interest. The Administrator may issue an exemption, to a unit of government, only if:

A. The Administrator certifies that the FAASTeam program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

B. The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government. To show undue economic burden, the petitioner for exemption should submit the following information with their petition for exemption:

- The purpose and duration of the aircraft operations for which exemption is sought
- The estimated cost of bringing the petitioner’s aircraft operations into compliance with civil aircraft requirements
- The estimated cost of obtaining the same aircraft operations from a private operator. The petitioner should also submit certification of the following types of information, as appropriate:
 - That the petitioner has made a reasonable search and solicitation for services that would meet the petitioner’s needs and that no such services were available
 - That the petitioner lacks the resources to pay for the required services
 - That the petitioner, by acquiring the services of a private operator, would incur additional expenses resulting from existing aircraft lease payments, mortgages, prorated cost sharing agreements, or other financial obligations

- That adequate service by private operators was unavailable at less than 110 percent of reasonable rates. Reasonable rates are those that are normally available and paid by the petitioner when doing business with private operators
- That unique circumstances, such as remote operations, are present which require special aircraft or pilot skills that are not available except at costs exceeding 110 percent of the costs the petitioner would incur when engaging in a similar operation in the area

NOTE: In the interest of administrative efficiency, the Administrator's authority to grant exemptions to units of government has been delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service.

3-538. GOVERNMENT AIRCRAFT OPERATOR SURVEILLANCE. Government aircraft operators, holding any type of FAA certification, will be included in the normal surveillance activities such as, spot inspections of the aircraft and aircraft records. This includes any aircraft exclusively leased to the Federal government. Any aircraft or operation certificated by the FAA is subject to this surveillance regardless of whether they are operating as "public" or "civil." For example, if an operator's operation is considered "public" or "private" and the hold an airworthiness certificate, their maintenance records are eligible for review. If you encounter an operator who states they are operating under the "public" status and you have questions concerning that operation, contact your regional public aircraft coordinator for assistance.

NOTE: Government-owned aircraft operators who are conducting public aircraft operations must be included in the FSDO's annual planned surveillance activities to ensure that their status remains unchanged.

3-539. OPERATING EXAMPLES.

A. It is perhaps easier to give examples of operations that do NOT conform to public aircraft operations than to describe public aircraft operations specifically. The aviation safety inspector (ASI) should be thoroughly familiar with the provisions of the AC 00-1.1. A few examples of prohibited operations under the Public Law are available in this document, but it is difficult to determine operations that are permitted.

B. Generally speaking, a public entity that responds to a situation that might involve transport by air may NOT operate as a public aircraft operation IF:

- 1) The operation can be completed by another means of transport (road ambulance) or civilian/hospital air medical transport (Lifeguard helicopter). An example would be a traffic accident in an urban or downtown setting, on roads easily accessible to all vehicles.
- 2) The transport operation has been scheduled in advance such as a patient transfer from hospital-to-hospital. A transport operation conducted as a routine flight, scheduled in advance can easily be accommodated by a civil operator and therefore, would not qualify as a public aircraft operation.

3) A patient (or their insurance underwriter) is expected to pay for services that include the transport of a patient from an accident scene to a hospital or clinic. Since commercial action is involved, this operation would not qualify as a public aircraft operation.

4) A public entity is reimbursed for services rendered and that reimbursement is NOT from a common treasury (i.e., a transfer of funds from one element of government to another element within that same government). In this case, if the federal government reimburses a local government for mosquito spraying operations, the operation could be considered “commercial” in nature.

5) The transport of a rescued person from a search and rescue mission to a hospital UNLESS no other means of transport is available and the mission can only be accomplished from the air.

3-540. ROLE OF THE ASI.

A. Congress mandated that the FAA provide regulatory oversight of some government aircraft operations. The role of the FAA includes surveillance and enforcement actions against government aircraft operators that operate for commercial purposes or engage in the transport of passengers.

B. One of the more difficult issues surround the phrase, “No service by a private operator was reasonably available.” This justification is frequently used at the dispatch centers when emergency response calls are received. The key phrase that needs to be evaluated is that of, “no private operator was available and capable of responding ... in a timely manner.” Dispatch organizations need to be made aware of their responsibility to the public and the government when providing a controlling and coordinating service.

C. Operators of government-owned aircraft holding any type of FAA certification will be included in the normal surveillance activities such as spot inspections of the aircraft and aircraft records. This includes any aircraft exclusively leased to the Federal government. Any aircraft or operation certificated by the FAA is subject to this surveillance regardless of whether they are acting as “public” or “civil.” For example, if a public aircraft operation is being conducted with an aircraft that holds an airworthiness certificate, the operator’s maintenance records are subject for review. If an inspector encounters an operator who states they are operating under “public” status and questions arise concerning that operation, the regional public aircraft coordinator should be contacted for assistance. Government-owned certificated operators who are conducting public aircraft operations must be included in the FSDOs annual planned surveillance activities to ensure that their status remains unchanged.

D. When an ASI has been made aware of instances where public aircraft operators are providing services that are civil aircraft operations either due to their commercial nature or the type of operation being conducted the inspector should bring the issue to an immediate supervisor for further action. Initial contacts should be made with the Public Aircraft Representative in the regional office and coordinated with regional counsel and General Aviation

and Commercial Division, Operations and Safety Program Support Branch, Commercial Operations Branch (AFS-820).

E. It is not within the FAA's purview to make direct contacts with agencies providing emergency dispatch services; however, the FSDO manager or a person designated by the regional office may be in a position to contact the supervising State agency, State Aviation Department, or county administrators. During a contact with a supervising agency, it would be appropriate to discuss violations of PL 106-181.

RESERVED. Paragraphs 3-541 through 3-555.

VOLUME 3 GENERAL TECHNICAL ADMINISTRATION**CHAPTER 14 PUBLIC AIRCRAFT****Section 2 Public Aircraft Operations and Surveillance Government Aircraft Operations Versus Civil Aircraft Operations****3-556 PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS) ACTIVITY CODES.**

A. Maintenance: 3690.

B. Avionics: 5690.

3-557 OBJECTIVE. This chapter contains guidance and information for aviation safety inspectors (ASI) assigned to or working with Government-owned aircraft, or public aircraft, as defined in Title 49 of the United States Code (49 U.S.C.) § 40102(a)(41).

3-558 GENERAL. On October 25, 1994, the President signed the Independent Safety Board Act Amendments, which contained a major change in the definition of public aircraft. Public aircraft are exempt from many types of Federal Aviation Administration (FAA) regulations. The current edition of Advisory Circular (AC) 00-1.1, Government Aircraft Operations, includes the FAA's interpretation of key statutory terms in reference to the new definition. The AC will assist operators of Government-owned aircraft in determining whether their aircraft operations are public aircraft operations under the definition. It is important for ASIs to obtain the AC and understand its contents.

3-559 STATUTORY PROVISIONS. Under the statute, which became effective April 23, 1995, many former public aircraft operations may now be subject to the regulations applicable to civil aircraft operations. For example, aircraft used to transport passengers will, in some circumstances, no longer be considered public aircraft. Unless they receive an exemption from the Administrator, the operators of such aircraft will need to meet civil aircraft requirements such as those pertaining to certification, maintenance, and training.

A. Aircraft owned and operated by the Armed Forces and the intelligence agencies of the United States will retain their public aircraft status unless operated for commercial purposes.

B. Except as provided in AC 00-1.1, chapter 1, subparagraph 2g through i, Government-owned aircraft operators transporting passengers or transporting property for commercial purposes will now be required to operate in accordance with the applicable regulations.

C. It is still considered a public aircraft operation when Government-owned aircraft operators transport (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or whose presence is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management. It is not

sufficient to show that the passengers are being transported to perform one of the governmental functions; the use of the aircraft must be necessary for the performance of the mission.

3-560 EXEMPTIONS. Field office personnel have no authority to allow government operators to conduct operations that do not comply with the regulations. A government agency may, in appropriate circumstances, seek either a regulatory or statutory exemption. An applicant for an exemption should be directed to follow the exemption process set forth in Title 14 of the Code of Federal Regulations (14 CFR) part 11. Agencies that apply for statutory exemptions are required to show that they have an acceptable aviation safety program (ASP) to ensure safe operations. The ASP should be submitted with the petition for exemption by following the procedures outlined in part 11. The Flight Standards District Office (FSDO) has jurisdiction over the applicant's operation and will be asked to review the safety program and give an opinion on whether the program meets the requirements for issuing the exemption. The FSDO will be expected to provide written justification for its recommendations.

3-561 ASSISTANCE. Regional coordinators have been selected to assist in answering questions concerning this issue and may be contacted through the ASI's Regional Office (RO). Until further notice, questions concerning enforcement and legal interpretations will be forwarded to the Washington headquarters (HQ). Regional coordinators will forward questions to either the Aircraft Maintenance Division (AFS-300) or the General Aviation and Commercial Division (AFS-800).

3-562 TYPE CERTIFICATION INQUIRIES. Questions concerning type certification, including Supplemental Type Certificates (STC), should be directed to the appropriate Aircraft Certification Office (ACO) identified in AC 20-126, Aircraft Certification Service Field Office Listing (current edition).

3-563 AIRWORTHINESS CERTIFICATION. Any requests for airworthiness certification should be handled in accordance with the guidance provided in the current edition of FAA Order 8130.2, Airworthiness Certification of Aircraft and Related Products. Original airworthiness certification requests should be directed to the appropriate Manufacturing Inspection District Office (MIDO) for handling. If the MIDO cannot support the request, the FSDO may accomplish the certification after a letter of delegation has been received from the MIDO as described in FAA Order 8130.2.

3-564 AIRCRAFT USED FOR DUAL PURPOSES. Government agencies may conduct both public and civil aircraft operations with the same aircraft. However, the operator will be required to maintain the aircraft in accordance with the appropriate regulations applicable to civil aircraft operations. Aircraft that hold airworthiness certificates should be handled as follows:

A. If the operation is a public aircraft operation and no modifications are made to the aircraft, the airworthiness certificate may be displayed in the aircraft as required by 14 CFR part 91, § 91.203(b).

B. When the public aircraft operation involves altering the aircraft temporarily, it is not necessary for the operator to surrender the airworthiness certificate or remove it from the aircraft. However, an inspection and logbook entry will be required prior to the aircraft operating as a

civil aircraft. For example, when the public aircraft operation requires the removal of a door during the public aircraft operation, an authorized individual must perform the door installation and return to service before the aircraft is operated as a civil aircraft.

C. When the modification is substantial and involves more than the simple removal and/or installation of equipment, the operator should obtain the required FAA approval before conducting civil aircraft operations. Where the modification is such that it permanently invalidates the airworthiness certificate of the aircraft, the FSDO should seek the voluntary surrender of the certificate. If the aircraft owner refuses to surrender the certificate, the FSDO should follow the procedures in FAA Order 2150.3, FAA Compliance and Enforcement Program (current edition).

D. The FAA has allowed a certificate holder that also conducts public aircraft operations to retain the aircraft on its operations specifications (OpSpecs) when certain requirements have been met. Generally, those requirements necessitate that the FAA approves permanent installations and modifications. Temporary alterations must be corrected and the appropriate inspection and maintenance entries must be made before the aircraft is returned to service.

3-565 SURVEILLANCE.

A. Government-owned aircraft operators holding any type of FAA certification will be included in the normal surveillance activities such as spot inspections of the aircraft and aircraft records. This includes any aircraft exclusively leased to the Federal Government. Any aircraft or operation certificated by the FAA is subject to this surveillance regardless of whether they are operating as public or civil. For example, if an operation is considered public and the operator holds an airworthiness certificate, its maintenance records are eligible for review. If an ASI encounters an operator that states it is operating under public status and the ASI has questions concerning that operation, contact the regional public aircraft coordinator for assistance.

B. Government-owned aircraft operators that are conducting public aircraft operations should be included in the FSDO's annual planned surveillance activities to ensure that the operator's status remains unchanged.

3-566 GOVERNMENTAL FUNCTIONS. Not all activities conducted by government agencies are considered governmental functions within the meaning of the new definition. The accepted functions include "firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management," or other comparable functions. In each instance, the use of an aircraft must be necessary to perform the function. In some cases, training flights may be considered acceptable where the training is being performed aboard aircraft that is necessary for the performance of the training. AC 00-1.1 provides examples of situations that may be encountered by the field ASI. If an ASI has any questions regarding other functions comparable to those listed above or the nature of an operation, the ASI should seek assistance from the regional coordinator.

3-567 PREREQUISITES AND COORDINATION REQUIREMENTS.

A. Prerequisites. Successful completion of the appropriate Airworthiness Indoctrination course(s).

B. Coordination. This task may require coordination between maintenance, avionics, and Operations ASIs.

3-568 REFERENCES, FORMS, AND JOB AIDS.**A. References (current editions):**

- AC 00-1.1, Government Aircraft Operations.
- Title 49 U.S.C. §§ 40102(a)(41) and 40125.

B. Forms. None.

C. Job Aids. None.

3-569 PROCEDURES.

A. FSDO managers should ensure that a site visit is held with each government agency in their geographic area. This visit is necessary to determine whether the agency conducts operations that are subject to the regulations applicable to civil aircraft operations. Upon determining that a government agency will be required to conduct its aircraft operations as civil aircraft, the FSDO should assist the government agency in meeting the requirements of the 14 CFR. Additionally, the FSDOs should provide the maximum assistance and advice to agencies that desire to operate in accordance with the 14 CFR while conducting public aircraft operations.

B. Any Government-owned aircraft that is not operated as a public aircraft will need to comply with all the appropriate certification, maintenance, and operating rules that apply to civil aircraft operations. For example, if the aircraft does not have a current inspection as required by § 91.409, it may not operate until the required inspection is accomplished.

3-570 PTRS. Each responsible field office will verify that all PTRS entries associated with Government-owned aircraft include either the word “public” (exclusively used in public operations) or the word “civil” (civil operations) as the first characters in the National Use field. If the operator has both public and civil operations, enter “civil” in the National Use field. The PTRS activity codes for Government-owned aircraft will be the same as those entries for identical activities involving civil aircraft. For example, if a government agency operating a SD3-30 contacts the FSDO and it is determined that the operator should be operating under 14 CFR part 135, then the ASI would open the PTRS using either activity code 3207 or 1213 and enter “civil” in the National Use field.

A. To monitor compliance with the rule, PTRS entries should be recorded for every contact with operators of Government-owned aircraft.

B. After determining that a Government-owned aircraft operator must meet the requirements for civil aircraft operations, standard PTRS codes should be used for the type of activity or surveillance being conducted. When accomplishing site visits on public operators who remain public, the inspector may use PTRS codes 1470, 3470, and 5470. These codes have been changed and do not require a 14 CFR entry. All other activities in association with public operators should use the same activity codes (1470, 3470, and 5470) and then enter the applicable PTRS activity code in the tracking block.

C. Using the Civil Aviation Registry to monitor the implementation of this change, it is critical to enter the “N” number into the Aircraft Registration Number block. The “N” number for each aircraft operated by the government agency should be entered into the initial PTRS action for that agency. If more than one aircraft is operated, enter the additional registration numbers in the comment section using opinion code “I” and comment code “816.”

D. Government operators who are operating their aircraft under part 91 are to have a 14 CFR part 125 deviation designator assigned to them by the Aviation Data Systems Branch (AFS-620) and tracked in the Vital Information Subsystem (VIS) in this manner. The assignment of a part 125 deviation designator is for tracking purposes only; they are not deviation holders.

3-571 TASK OUTCOMES. Complete the PTRS record.

3-572 FUTURE ACTIVITIES. None.

RESERVED. Paragraphs 3-573 through 3-590.