



Federal Aviation
Administration

Public Aircraft Operations Forum

Presented January 20, 2011 by:

John Allen

Director, Flight Standards Service (AFS-1)



Today's Discussion

- Background
- Current FAA Policy
- Pending FAA guidance/publications regarding Public Aircraft Operations
- Clarification of specific issues related to Public Aircraft Operations
- Questions and Answers from Attendees



Statute is Unclear

- **Ambiguity of Roles & Responsibilities:**
 - Contractors / Operators
 - Federal Aviation Administration
 - U.S. Government Entities

Operating Status

- **Civil Aircraft Operation:**
 - Private or Commercial operations for which the FAA performs:
 - Safety oversight;
 - Certification for systems and equipment, and
 - Issuance of operational standards
- **Public Aircraft Operation:**
 - Certain government operations within U.S. airspace;
 - FAA certification not required
 - Must comply with certain general operating rules applicable to all aircraft
- **State Aircraft Operations:**
 - Operations outside the United States that are in the service of the U.S. government. Status is a complex consideration of diplomatic clearances and determinations made primarily by the US Department of State.

Status Considerations

- **Public aircraft operation determinations are made:**
 1. **On a flight-by-flight basis, and**
 2. **Under the terms of the statute**
 - Definitions in 49 USC §40102(a)(41) including government agencies and military
 - Commercial purposes in 49 USC §40125(a)(1)
 - Governmental function in 49 USC §40125(a)(2)
 - Qualified non-crewmember in 49 USC §40125(a)(3)

Contracts between Government Entities & Civil Operators

- Public Aircraft status is not “automatic” status granted by the presence of a contract between a civil operator and a government agency.



FAA Policy - Government Contracts with Civil Operators

- The FAA will consider ALL contracted aircraft operations as civil aircraft operations, until:
 - The contracting government entity provides the operator with a written declaration of public aircraft status for applicable flights;
 - The contracting government entity notifies the local FAA Flight Standards District Office (FSDO) having oversight of the operator (or operation) that they have contracted with the civil operator to conduct “eligible” public aircraft operations;

FAA Policy - Government Contracts with Civil Operators (Cont.)

- Continued...
 - The flights in question are determined to be legitimate public aircraft operations under the terms of the statute, and
 - The above declarations are done in advance of the proposed public aircraft flight.
- Note: Declaration of public aircraft operation status must come from the contracting officer or higher level authority government official

Government Entities

- We are requesting input from government entities that regularly contract with civil operators for the most efficient method for making this declaration

Email recommendations to:

PublicAircraft@faa.gov

FAA Oversight Responsibilities

- If a government contracted civil operator with a government contract conducts a flight, the FAA will assume the flights remain a civil aircraft operation unless the proper documentation and declarations from the contracting agency are communicated to the FAA and the operation is determined to be in accordance with the statutory requirements.
- Until a change in status is documented, the FAA will retain oversight and enforcement authority for any violations of the Title 14 regulations applicable to the operation.

Operator Responsibilities

- When a declaration of public aircraft operation status has not been made, all operations must be conducted in accordance with all applicable regulations.
- If an operator is offered a contract to perform operations that violate 14 CFR, it is the operator's responsibility to refuse to accept the contract or ensure that the proper notice is given to the FAA.

Operator Responsibilities (Cont)

- When a declaration of public aircraft operation status has been made, the operator must still comply with certain 14 CFR regulations that affect all users of the NAS
 - (e.g.: 91.119 – Minimum Safe Altitudes)
- Other 14 CFR regulations may also still apply
 - (e.g.: Operating Rules in 14 CFR parts 133 and 137)

Government Entity Responsibilities

- Recognize that public aircraft operation eligibility is determined by statute
- Make a declaration in advance and in writing to both the operator and to the FAA when the government entity intends for the operator to conduct such operations
- Understand that public aircraft operation is a transfer of liability to the government entity and that FAA oversight ceases.

Operational Control

- Operational Control is a term used in civil aircraft regulations and does not appear in the public aircraft statute. It does not enter into the determination of public aircraft operation
 - There is a presumption that during public aircraft operations, the civil operator does not have operational control.

Operations Specifications

- A government entity may contract for an air carrier aircraft. Part 119 certificated air carriers must be aware of the following policy considerations:
 - A contracted aircraft can remain on Operation Specifications for a period not to exceed 90 days (for operators with continuous public aircraft operations provided the aircraft is maintained in accordance with the air carrier's approved maintenance program and operated within the limitations outlined on its type certificate data sheet);
 - If the aircraft is modified in violation of its type or airworthiness certificate, or maintained outside the air carrier's approved maintenance program, it must be removed from the carrier's operations specifications before any flight is conducted.

Maintenance Program Requirements

- When an aircraft is operated outside an approved 14 CFR Maintenance Program, Type Certificate Data sheet, or is modified in a manner not consistent with the regulations, it must undergo a conformity inspection prior to returning to civil aircraft status

Guidance

- The FAA is revising the Public Aircraft Advisory Circular.
- We seek comments from government entities who contract with aircraft operators regarding the best ways for them to implement FAA public aircraft operations policy.

Send comments to:

FAA General Aviation & Commercial Division
800 Independence Ave., SW (Rm 835)
Washington, DC 20591

or

PublicAircraft@faa.gov



Questions

Federal Aviation Administration Panel Members:

John Allen, Director, Flight Standards Service (AFS-1)

Dennis Pratte, Deputy Division Manager, General Aviation & Commercial Division (AFS-800) Dennis.Pratte@faa.gov

Carl Johnson, Branch Manager, General Aviation Commercial Operations Branch (AFS-820) Carl.N.Johnson@faa.gov

Karen Petronis, FAA Senior Attorney - Public Aircraft (AGC-200) Karen.Petronis@faa.gov