



Federal Aviation  
Administration

# Public Aircraft Operations

ICAP Collaboration Panel

Presented July 25, 2011 by:

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# Overview

- FAA Structure
- Reasons for Policy Change
- New Policy on Contracted Public Aircraft Operations
- Policy Clarifications
- Questions and Answers



# FAA Structure

- **4 Lines of Business**
  - Aviation Safety (AVS)
  - Air Traffic Organization (ATO)
  - Airports (ARP)
  - Commercial Space (AST)
  
- **Staff Offices**



# Aviation Safety (AVS)

- **7,400 employees**

**Includes:**

- Flight Standards Service**
- Aircraft Certification Service**
- Rulemaking**
- Aerospace Medicine**
- Accident Investigation and Prevention**
- Air Traffic Safety Oversight Service**
- Quality, Integration, & Executive Services**



# Flight Standards (AFS)

- **5,240 employees, including over 4,000 Aviation Safety Inspectors**
- **82 Flight Standards District Offices (FSDOs)**
- **Oversight for over 6,000 Air Operators**



# Reasons for FAA Policy Change

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



# 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. For the purposes of aircraft operation, a designation of “State” aircraft must be made by the United States 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 an “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 to be civil aircraft operations, until:
  - The government entity provides the operator with a written declaration of public aircraft status for designated, qualified flights;
  - The proposed flights are determined (by the operator and government entity) to be eligible public aircraft operations under the statute; **and**



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

- The operator submits a copy of the written declaration to the FSDO in advance of any public aircraft operations conducted by the operator.

**Note:** Declaration of public aircraft operation status must come from the contracting officer or higher level government official

# FAA Oversight Responsibilities

- If a civil operator conducts a flight under a government contract, the FAA will assume that the flight is a civil aircraft operation unless the declaration from the contracting government entity is submitted to the FSDO 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 civil aviation regulations applicable to the operation.



# Operator Responsibilities

- When a declaration of public aircraft status has not been made, all operations must be conducted in accordance with all applicable regulations.
- If an operator is offered a government contract to perform operations that would violate civil aviation regulations, it is the operator's responsibility to refuse the contract or ensure that a declaration is received and provided to the FAA.

# Operator Responsibilities (Cont)

- When a declaration of public aircraft status has been made, the operator must continue to comply with 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 status eligibility is determined by statute;
- Make a declaration in advance and in writing to the operator when the government entity intends for the operator to conduct such operations;
- Understand that public aircraft operations involve a transfer of liability to the contracting government entity and that the FAA does not conduct operational oversight for those flights.

# 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, 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, or is modified in a manner not consistent with regulations, it must undergo a conformity inspection prior to returning to civil aircraft status.
- Operators should continue to keep detailed maintenance records when not operating under an approved maintenance program.

# FAA Notice of Policy (76 FR 16349)

- Issued on March 23, 2011
- Comments requested from government entities
- 21 substantive comments received, from government entities and public



# Comments Summary

- Confusion on “flight-by-flight basis” language
- Declaration process and efficiency concerns
- Oversight responsibilities
- Desire for public comment on policy
- Desire for government input on AC and Guidance
- Confusion between public vs. state aircraft



# Clarifications - FAA Policy Notice

- Operators do not need to declare to the FAA for each flight or on a daily basis, a declaration should be submitted for each contract;
- Each flight conducted as a public aircraft operation must remain eligible as such under the terms of the statute, a contract or declaration does not automatically make the operation eligible;
- The operator and the government entity share responsibility for ensuring each flight is eligible;



# Clarifications - continued

- Declaration information will be maintained in a national database available to all FSDOs, there is no need to submit the same declaration to multiple FSDOs;
- The FAA will continue airworthiness oversight when the aircraft remains on OpSpecs and complies with an approved civil maintenance program; and
- The contracting government entity is responsible for oversight of operations when they declared as public aircraft operations.



# Guidance

- The FAA is revising Advisory Circular (AC) 00.1-1, Government Aircraft Operations;
- The draft AC will be available for public comment on the FAA web site;
- **The FAA policy requesting a written declaration became effective March 23, 2011.**

# How Do I Declare?

- Operators: contact your contracting government entity to verify your status (public or civil) while operating under contract;
- Government entities, determine:
  1. Whether contracted operations are eligible for public aircraft status under the statute, and
  2. Whether contracted operations can be conducted within civil regulations or require a written declaration of public aircraft status;
- Operators: submit a copy of the written declaration to the FSDO having oversight of your operation.

# Declaration Information

At a minimum, a written declaration should include:

1. Name of contracted civil operator
2. Name of sponsoring government entity
3. Name, title, contact information for government contracting officer
4. Aircraft to be used (N-number and type)
5. Date of contract and termination date
6. Nature of operation(s), with enough detail to show governmental function
7. Description of maintenance program while conducting public aircraft operations (i.e. will aircraft continue to be maintained within civil maintenance regulations?)



# Questions

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