

FAA's interpretation of key terms in the new statutory definition. For operations that have lost public aircraft status under the new law, this Advisory Circular provides information on bringing those operations into compliance with FAA safety regulations for civil aircraft. It also provides information on applying for an exemption. This Advisory Circular provides acceptable, but not exclusive, means of complying with the law.

DATES: This Advisory Circular is effective on April 19, 1995.

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SUPPLEMENTARY INFORMATION: The guidance in this AC provides one method, but not the only method of complying with the new definition of public aircraft as defined in the Independent Safety Board Act Amendments of 1994, Pub. L. 103-411. This guidance material supplements the final rule titled Public Aircraft Definition and Exemption Authority. Because Pub. L. 103-411 becomes effective April 23, 1995, the AC is published in its entirety in order to allow expedient access to the document by the general public.

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William J. White,

Acting Director, Flight Standards Service.

Advisory Circular

Subject: Government Aircraft Operations

Date: 4/19/95

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Change:

1. *Purpose.* The purpose of this advisory circular (AC) is to provide guidance on whether particular government aircraft operations are public aircraft operations or civil aircraft operations under the new statutory definition of "public aircraft." This AC contains the Federal Aviation Administration's (FAA) intended application of key terms in the new statutory definition. For operations that have lost public aircraft status under the new law, this AC provides information on bringing those operations into compliance with FAA safety regulations for civil aircraft. It also provides information on applying for an exemption. This AC provides acceptable, but not exclusive, means of complying with the law. Agencies which conduct public aircraft operations are encouraged to comply with the Federal Aviation Regulations (FAR), even when they are not required to do so. They and the flying public will benefit from their voluntary adherence to the enhanced safety standards set out in the regulations. The FAA will continue to provide assistance to public agencies which seek to voluntarily comply with the regulatory requirements.

2. *Reference.* 49 U.S.C. 40102(A)(37).

3. *Related Material.*

a. AC 00-2.8, Advisory Circular Checklist, lists documents that provide guidance on many of the processes required to be followed in the certification and operation of civil aircraft.

b. AC 00-44FF, Status of Federal Aviation Regulations, provides the current public status of the Federal Aviation Regulations (FAR), prices, and order forms,

c. AC 20-132, Public Aircraft, provides guidance that public aircraft status under the Federal Aviation Act does not permit operations outside the territorial limits of the United States without a valid airworthiness certificate.

d. AC 120-12A, Private Carriage Versus Common Carriage of Persons or Property, furnishes general guidelines for determining whether transportation operations by air constitute private or common carriage.

e. AC 120-49, Certification of Air Carriers, provides information and guidance on the certification process for air carriers under FAR Parts 121 and 135.

f. Guide to Federal Aviation Administration Publications provides guidance on identifying and obtaining FAA and other aviation-related publications issued by the Federal government.

Note: Copies of the above documents may be obtained from the Department of Transportation, M-45.3, General Services Section, Washington, DC 20590.

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Chapter 1. Determining Whether Operations are Public or Civil

1. Public Aircraft Definition

a. *Background.* In recent years, there has been an increasing interest in matters involving operations of public aircraft, which are generally exempt from compliance with the Federal Aviation Regulations.

(1) One area of interest is related to government agencies' receipt of reimbursement for their operation of government-owned aircraft. Prior to the enactment of the Public Law 103-411, the Independent Safety Board Act Amendments of 1994, "public aircraft" was defined to exclude "any government-owned aircraft engaged in carrying persons or property for commercial purposes." (P.L. 100-223, 1987). The FAA's long-standing interpretation has been that, where there is a receipt of compensation, such an operation is "for commercial purposes" and that such an operation therefore is not a public aircraft operation. This interpretation has been applied to intergovernmental arrangements wherein one government agency receives compensation for providing aircraft services to another government agency. Such services may be provided for firefighting, search and rescue or other governmental functions. Many government operators objected to the FAA's interpretation, claiming that such an interpretation impeded their governmental missions. They urged that it was impractical or impossible to obtain the services commercially, and that it was too costly to conduct their operations under the Federal Aviation Regulations as civil aircraft.

(2) On October 9, 1994, Congress passed the Independent Safety Board Act Amendments, Pub. L. 103-411, which changed the definition of the term "public