

standards of FAR §§ 21.93(b), 21.183(e), Part 36, or 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 FAR Part 34. In addition, the applicant must show the aircraft meets the applicable passenger emergency exit requirements of FAR Section 21.183(f) and SFAR No. 41.

(5) During the course of the certification process, the FAA will review records and documentation to the extent necessary to establish that:

(i) 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 FAR §§ 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.

(ii) The applicant should ensure that the appropriate markings are present in accordance with FAR Part 45. The applicant should make available the Type Certificate Data Sheets (TCDS), aircraft specification, or aircraft listing that is applicable.

(iii) 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 FAR § 21.183(d)(2), which provides for a 100-hour inspection, as described in FAR § 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.

(iv) 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 FAR § 21.35 and 21.191(b). The flight test must be recorded in the aircraft records in accordance with FAR § 91.417(a)(2)(i) as time in service as defined in FAR 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.

(v) Large airplanes, turbojet, or turbopropeller multiengine airplanes must comply with the inspection program requirements of Subpart C of FAR Part 91 or other FAR 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.

(6) Inspection of the aircraft. Aircraft submitted by the applicant for inspection will be inspected for the following:

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

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

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

(iv) All applicable AD's must have been complied with and appropriately recorded.

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

(vi) 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.

Chapter 3. Applying for an Exemption

6. Administrator's Exemption Authority

a. *In General.* The FAA Administrator has the authority to grant exemptions, provided certain requirements are met, to units of government for operations that do not have public aircraft status. The Independent Safety Board Act Amendments of 1994, Pub. L. 103-411, provide, in pertinent part:

(1) Authority to Grant Statutory Exemptions.

(i) *In General.* The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section (the revised "public aircraft" definition).

Note: The above provision authorizes exemptions from the United States Code—specifically, the Federal Aviation Act of 1958, as amended and recodified—rather than from the regulations. The above provision authorizes such exemptions only for operations whose status has changed as a result of the revised definition of public aircraft. This authorization does not apply to operations conducted for commercial purposes, in as much as they were considered civil aircraft operations under both the original and revised definitions.

b. *Statutory Requirements.* The statute provides as follows:

(1) The Administrator may grant an exemption [to a unit of government] * * * only if—

(i) The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government and

(ii) The Administrator certifies that the aviation safety 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.

Independent Safety Board Act Amendments of 1994, Section (b)(2), Pub. L. 103-411 (emphasis added).

c. *Delegation of Authority.* 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. FAR Section 11.25(b)(6).

7. Key Statutory Terms

a. "*The Administrator Finds * * * and * * * Certifies.*" This language indicates that the Administrator, or his or her delegate, is to make an independent determination as to whether the statutory requirements for granting an exemption have been met. This is in contrast to an earlier portion of the statute in which the unit of government rather than the Administrator makes the required certifications (that the operation was necessary to respond to a significant and imminent threat, and that no private operator was reasonably available to meet the threat).

b. "*Undue Economic Burden.*" One finding that the Administrator or his or her delegate must make before granting an exemption is that the exemption is necessary to prevent an undue economic burden on the unit of government. "Undue economic burden" means that it would cost substantially more to comply with FAA regulations than with "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government" under the statute's exemption provision. To show "substantial additional costs," a petitioner for exemption should submit information that will allow the FAA to compare the cost of operating in compliance with Part A of Subtitle VII of Title 49 of the United States Code with comparable costs if an exemption were granted.

c. "*Aviation Safety Program.*" The Administrator or the Administrator's delegate may not grant an exemption to a unit of government without certifying that the aviation safety 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." As a result, in the petition for an exemption, the petitioner must show to the Administrator's satisfaction that the petitioner's aviation safety program is effective and appropriate to ensure safe operations of the type of aircraft operated by the petitioner. Example: A unit of government applies for an exemption on an aircraft whose wings were modified to carry external pods for various surveillance activities. In its proposed aviation safety program, the unit of government would need to identify how the continued airworthiness of the modification will be accomplished. At minimum, the following may be required: a special structural inspection at the wing attach points, additional training for pilots operating the aircraft during pod installations, and flight manual changes to reflect any new operating limitations that may be necessary due to the modifications.

d. *Aircraft with No Previous FAA Type Certification.* It may be difficult for units of government to show that, for aircraft having no previous FAA type certification, e.g., military surplus aircraft, they have "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government." In order to make the "effective and appropriate aviation safety program" finding, the FAA must be assured that the safety of the aircraft in question is comparable to that provided by the FAR. Aircraft that have no history of civil