Standards Service, Air Carrier Branch (Attention: AFS-200), 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Carrier Branch (AFS-220), (202) 267-8094, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: This AC provides guidance on the FAA's application of the new definition of public aircraft enacted 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 to allow commenters access to the document as quickly as possible.

Issued in Washington, DC on January 20, 1995.

William J. White,

Deputy Director, Flight Standards Service.

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.

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. Thomas C. Accardi,

Director, Flight Standards Service.

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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 a growing concern about the safety of public aircraft, which are statutorily exempt from most types of FAA regulation.

(1) Intergovernmental reimbursement for the use of government-owned aircraft has also engendered a great deal of controversy. Intergovernmental reimbursement is involved when, for example, state and local governments enter into agreements with each other whereby one government reimburses the other for flying firefighting, rescue, or other missions for it. Some private operators have claimed that state and local governments have competed with them unfairly under the public aircraft exemption. The FAA's longstanding interpretation has been that where there is an exchange of money, an operation is "for commercial purposes" and does not have public aircraft status-i.e., such an operation is a civil aircraft operation. Many government operators objected that this interpretation made it impossible to carry out their missions, because it is impractical to obtain the services commercially, and too costly to change many of their aircraft to meet FAA requirements for civil aircraft.

(2) In response to this controversy, the FAA announced in the Federal Register on August 1, 1994, that it would reconsider whether intergovernmental reimbursement negates public aircraft status. The FAA invited comment from interested parties, 59 FR 39192, and planned to announce its decision by the end of the year.

(3) On October 9, 1994, Congress passed the Independent Safety Board Act Amendments, Pub. L. 103-411, which contained a major change in the definition of "public aircraft." The new law made the FAA's planned reconsideration unnecessary. Under the new law, where intergovernmental reimbursement occurs, the aircraft is a civil aircraft unless the appropriate unit of government certifies "that the