

CCSF DRONE USE POLICY (DRAFT)

On February 2nd, 2015, the City Purchaser issued a directive prohibiting the purchase and use of Unmanned Aerial Systems, commonly referred to as “drones,” until a formal policy has been approved by the Committee on Information Technology (COIT).

The Purchasing Directive remains in effect until such time as it is modified or revoked by the Purchaser.

CCSF Drone Policy

Definitions: **Unmanned Aerial Systems or “drones”** shall mean any unmanned aircraft, or an aircraft that is operated without direct human intervention from within or on the aircraft and associated elements (including communication links and components that control the unmanned aircraft) that are required for the pilot or system operator in command to operate safely and efficiently in the National Airspace System.

Recommendations for CCSF use of drones:

Scope: This policy applies to the use of drones by City departments and City contractors.

Authorized Use: All City drones must be operated in accordance with all City, State, and Federal regulations, and in accordance with all Constitutional guarantees. Before drones may be used by a Department, the Department must obtain a Certificate of Authorization, waiver, or exemption from the Federal Aviation Administration (FAA) as required by federal law.

All drones must have Global Positioning Systems (GPS) and a transponder to track each unit. All drones must have up-to-date firmware. In addition, City-owned drones must have signal encryption to protect the live stream of information.

A City Department or City employee may only operate a drone for uses directly related to public safety or public interest, as defined below.

Public Safety - Use for public safety must only include operation to protect the public for the purposes of firefighting, disaster relief & recovery, containment of hazardous materials, or search and rescue.

Public Interest - Drone use in the Public Interest are activities that substantially benefit the general welfare of San Francisco, such as educational, agronomic, scientific, or permit compliance purposes.

Compliance for authorized use will follow similar measures as defined by the Community Safety Camera Ordinance as defined in Administrative Code Section 19.4 and 19.6.

These requirements include:

- *Recommendation for Drone Use by the Department’s Director:* The Department’s Director must describe the intended use of the drone. This description will define authorized use.
- *Annual Report to the Committee on Information Technology:* An annual audit of drone use and provide findings to the Committee on Information Technology. A full list of required operations information is appended to this document.

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- Privacy:** Departments shall only collect information using a drone, or use drone-collected information, to the extent that such collection or use is consistent with and relevant to an authorized purpose. Under no circumstances may recordings from drones be used for personal purposes. The City is prohibited from using drone data to collect information on individuals or private property, except for purposes as strictly defined above as a public safety or public interest purposes. Data gathered during First Amendment demonstrations may only be used in real-time and not recorded for archiving.
- Before the use of a drone, departments shall notify property owners when the intended flight path is above private property. This requirement does not apply in cases of drone use during an emergency.
- For all authorized drone use, City departments will retain all drone collected data for a period not to exceed 1 year, as defined by 28 Code of Federal Regulation (CFR) Part 23. Exemptions to the data retention limit may be granted by the City Administrator's Office in special circumstances. Access to information gathered by the drone will be limited to the operating department. The City may only release records to other agencies through a court order or exigent public safety circumstances.
- In emergency situations where drones are used for public safety purposes only, drone data will be available in real-time to the Operation Command during the emergency. Following the conclusion of emergency operations, departments will send all drone operational summary information to the Department of Emergency Management.
- Public Safety:** All drone operators must be certified pilots with specific FAA authorization and must register with the Department of Emergency Management.
- Drone operators must maintain a visual line-of-sight with drone in-flight at all times. Drones may only reach a maximum altitude of 500 feet above ground level. Drone operators may only operate one drone at one time.
- Any drones used by the City may not have any distracting lighting, flagrant coloring, or lasers that may otherwise distract drivers.
- Prohibited Zones:** Drones may not be used within five miles of an airport unless approved by the FAA. Public use of drones will not be authorized within 500 feet of historical landmarks whose locations are defined by Article 10 of San Francisco's Planning Code.
- Enforcement:** All drones must adhere to all FAA Temporary Flight Restrictions.

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All departments using drones must track the following information during every instance of use.

Department:

Executive Sponsor:

FAA Waiver Award Date:

Submitted By:

Drone Operator

Name:

Pilot Certification Date:

Drone Specifications

Cost (purchase & maintenance cost):

Model:

Registration Number:

Last Firmware update date:

Maximum Battery Life:

Maximum Cruise Speed:

Maximum Altitude:

Climb Rate:

Descend Rate:

Video specifications:

Additional onboard equipment:

Program Summary:

Operational Summary:

Public Safety

Public Interest

Weather Conditions:

Time of operations

Begin:

End:

Streaming video feed?

Participating Departments:

Video archived?

In addition, please attach the following information

- FAA Certificate of Authorization
- Flight Path Map
- Transponder Data
- A summary of public comments
- Statistics that calculate its effectiveness

CCSF DRONE USE POLICY (DRAFT)

Recommendations for permitting the use of drones by private parties:

- Scope:** This policy applies to the use of drones by anyone that requires a City permit to operate a drone and for all parties operating a drone while using or leasing City facilities.
- Authorized Use:** All City drones must be operated in accordance with all City, State, and Federal regulations, and in accordance with all Constitutional guarantees.
- Privacy:** Drone operators may only collect information using a drone, or use drone-collected information, to the extent that such collection or use is consistent with and relevant to the authorized permit.
- Public Safety:** Drone operators must maintain a visual line-of-sight with drone in-flight at all times. Drones may only reach a maximum altitude of 500 feet above ground level. Drone operators may only operate one drone at one time.
- Drones may not have any distracting lighting, flagrant coloring, or lasers that may otherwise distract drivers.
- Prohibited Zones:** Drones may not be used within five miles of an airport unless approved by the FAA. Public use of drones will not be authorized within 500 feet of historical landmarks whose locations are defined by Article 10 of San Francisco's Planning Code.
- Enforcement:** All drones must adhere to all FAA Temporary Flight Restrictions.



U.S. Department
of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: Public Aircraft Operations

Date: 2/12/14

AC No: 00-1.1A

Initiated by: AFS-800

Change:

1. PURPOSE. This advisory circular (AC) provides information to assist in determining whether government or government-contracted aircraft operations conducted within the territory of the United States are public or civil aircraft operations under the statutory definition of “public aircraft,” in Title 49 of the United States Code (49 U.S.C.) §§ 40102(a)(41) and 40125 (the statute). Additionally, this AC contains Federal Aviation Administration (FAA) policy pertaining to civil aircraft operators that provide contract support to government entities. The intent of this material is to better define the responsibilities of the parties to these contracts. This AC is not mandatory and does not constitute a regulation. Nothing in this AC changes the legal requirement for public aircraft operators to comply with the statute.

2. APPLICABILITY. This AC provides information for any person who engages in public aircraft operations (PAO) as defined by the statute.

3. CANCELLATIONS. This AC cancels AC 00-1.1, Government Aircraft Operations, dated April 19, 1995.

4. RELATED REGULATIONS:

- Title 14 of the Code of Federal Regulations (14 CFR); and
- Title 49 U.S.C. §§ 40102(a)(41) and 40125.

5. RELATED MATERIAL (current editions). AC 120-16, Air Carrier Maintenance Programs.

6. BACKGROUND.

a. Statutory Criteria. PAO are limited by the statute to certain government operations within U.S. airspace. Although these operations must continue to comply with certain general operating rules, including those applicable to all aircraft in the National Airspace System (NAS), other civil certification and safety oversight regulations do not apply to these operations. Accordingly, most aspects of PAO are not subject to FAA oversight.

b. Considerations. Whether an operation qualifies as a PAO is determined on a flight-by-flight basis, under the terms of the statute. The considerations when determining PAO are aircraft ownership, the operator, the purpose of the flight, and the persons on board the aircraft.

c. Civil Aircraft Operation. Any operation that does not meet the statutory criteria for a PAO is a civil aircraft operation and must be conducted in accordance with all FAA regulations applicable to the operation. The public aircraft statute sets forth criteria that determine whether a government operation qualifies as a PAO.

d. Statutory Provisions. Title 49 U.S.C. § 40102(a)(41) provides the definition of “Public Aircraft” and § 40125 provides the qualifications for public aircraft status. These statutory provisions provide the legal basis for operation of public aircraft in the United States (see Appendix 1, Public Aircraft Statute). The FAA recognizes that these statutory provisions may be difficult to apply to aircraft operations conducted by civil contractors for government entities. This AC reiterates the FAA’s policy for civil operators contracting with government entities and defines the responsibilities of the parties affected by these contracts. Unmanned aircraft systems (UAS) may qualify for a PAO certificate of authorization (COA) or waiver under the terms of the statute and other requirements for PAO UAS operating in the NAS. UAS operators should contact the Unmanned Aircraft Systems Integration Office (AFS-80) regarding specific questions on operations of UAS as public aircraft that may not be addressed in this document (see Appendix 2).

e. Format. We are presenting the material in this AC in the format of frequently asked questions regarding PAO. We are also including some simplified flow charts to aid in determining whether certain operations qualify as PAO. The flow charts are intended to be used to aid government entities to determine whether certain flights they operate qualify for operation as PAO under the statute.

7. PUBLIC AIRCRAFT OPERATIONS, GENERAL.

a. What Aircraft are Considered Public Aircraft? Public aircraft are defined in 49 U.S.C. § 40102(a)(41) (see Appendix 1).

b. Are All Operations by Government Entities PAO? Not necessarily; the statute restricts PAO to those that do not have a commercial purpose and, where applicable, to flights with certain persons on board. A government entity may unintentionally conduct civil operations that would be subject to the regulations in 14 CFR. All government entities are advised to become acquainted with the basics of the statutory requirements.

c. What Circumstances Enter Into the Determination of a PAO? The statute includes provisions on aircraft ownership, the entity operating the aircraft, the persons on board, and the purpose of the flight to determine whether operations are public or civil. At no time may a public operation have a commercial purpose. Reimbursement for PAO is strictly limited to one set of circumstances defined in the statute (refer to 49 U.S.C. § 40125(a)(1)), though certain military operations under Title 10 may involve other statutory considerations. It is important to note that the “commercial purpose” provision of the statute does not prohibit government entities from contracting civil operators for the purposes of conducting PAO. The provision prohibits reimbursement for the government entity, but does not prohibit contractors from being paid for conducting eligible PAO (see paragraph 10(c) below.).

d. Are All Operations by the Armed Forces PAO? Not necessarily; the U.S. military is covered under a separate paragraph of the statute (49 U.S.C. § 40125(c)) to include much of its routine operation. Separate provisions in that paragraph determine the status of certain operations performed by civil contractors that require a designation by the Secretary of Defense.

e. What Oversight of PAO Does the FAA Have? The FAA has limited oversight of PAO, though such operations must continue to comply with the regulations applicable to all aircraft operating in the NAS. The government entity conducting the PAO is responsible for oversight of the operation, including aircraft airworthiness and any operational requirements imposed by the government entity. The government agency contracting for the service assumes the responsibility for oversight of a PAO.

f. Does the FAA Prescribe Regulations for PAO? No, the FAA has no regulatory authority over PAO other than those requirements that apply to all aircraft operating in the NAS.

g. Which Regulations in 14 CFR Do Not Apply to PAO? In general, regulations that include the term “civil aircraft” in their applicability do not apply to PAO (e.g., part 91, § 91.7, Civil Aircraft Airworthiness).

h. Can I Conduct a PAO Outside of the United States? No, public aircraft status exists only within U.S. airspace. Once an aircraft leaves U.S. airspace, it loses its PAO status and is either civil or State (including military), depending on its official designation. The FAA does not have the authority to issue State or military aircraft designations. Individual U.S. states and local governments do not have the authority to declare their operations to be State operations. Without an official U.S. Government designation, all aircraft outside U.S. airspace are considered civil.

i. Can I Carry Passengers on an Aircraft That is Conducting a PAO? All persons carried on board must be crewmembers or meet the statutory definition of “qualified noncrewmember” (refer to Appendix 1, 49 U.S.C. § 40125(a)(3)). Carriage of a person other than a crewmember or a qualified noncrewmember makes a flight civil under the terms of the statute. It is important to note that a qualified noncrewmember is someone whose presence is required to perform the governmental function associated with the flight; providing air transportation is not a governmental function (except as provided for in 49 U.S.C. § 40125(c)).

j. What Constitutes a Governmental Function? The statute provides several examples of governmental functions in 49 U.S.C. § 40125(a)(2). This list is not inclusive and other governmental functions may exist. Functions not listed should not be presumed to be acceptable; contact the International Law, Legislation, and Regulations Division (AGC-200) regarding a legal interpretation to identify additional functions.

k. Can a Government Entity Qualify for a Civil Operating Certificate? Yes, provided the government entity requires a civil operating certificate to conduct proposed operations that cannot be conducted as a PAO. Government entities must follow the same application and certification processes and comply with the same regulatory requirements as all other civil applicants. The FAA advises all government entities with a civil operating certificate to establish a clear process for determining whether a flight is a PAO or is being conducted under its civil operating certificate.

1. If I Am a Government Entity with an Aircraft that Does Not Have a Civil Airworthiness Certificate, May I Use it to Conduct a PAO? Yes, however, aircraft that do not have a Civil Airworthiness Certificate may not operate as a civil aircraft. Government entities are cautioned to become familiar with the requirements for PAO status so that they do not unintentionally conduct civil operations with these aircraft. For example, a government entity using surplus military aircraft without civil airworthiness certificates could not receive compensation for any operations with those aircraft (i.e., could not operate them as civil aircraft under any part of 14 CFR).

8. FAA POLICY FOR CONTRACTING CIVIL AIRCRAFT OPERATORS. To clarify FAA oversight of certain contracted civil aircraft operators, on March 23, 2011, the FAA published its Notice of Policy Regarding Civil Aircraft Operators Providing Contract Support to Government Entities (Public Aircraft Operations) (76 FR 16349). This policy is consistent with the FAA's interpretation of the statute and does not change the statutory requirements for PAO. This section summarizes the policy and its impact on operators, government entities, and the FAA.

a. Does a Contract With a Government Entity Automatically Grant PAO Status to a Civil Operator? No, public aircraft status is not automatic. The determination of public aircraft status is made on a flight-by-flight basis; both the government entity and the contracted civil operator share responsibility for determining whether:

- A particular flight meets the statutory requirements for a PAO before the operation takes place, and
- If the status has been properly communicated between the contracting entities and the FAA.

b. If I Am a Civil Operator Contracting my Services to a Government Entity, What Actions Should I Take Before Conducting a PAO? The contracting government entity should provide the civil contractor with a written declaration of public aircraft status for designated, qualified flights. This written declaration should be made in advance of the proposed public aircraft flights. Government entities need to determine who is qualified to make a written declaration (which determines responsibility) for the entity. The FAA recommends that the declaration be made by a contracting officer or other official familiar with the public aircraft statute, and be separate from any contract between the government entity and contracted civil operator.

(1) Once a civil operator receives a declaration from the contracting government entity, the contractor should submit a copy of the written declaration to the FAA Flight Standards District Office (FSDO) responsible for the operator. This will serve as notice to the FAA that there is a contract between the civil operator and the government entity that anticipates the conduct of PAO.

(2) The civil operator and the contracting government entity are responsible for jointly determining whether each flight conducted under the contract qualifies for PAO status under the terms of the statute.

c. I Am a Civil Operator with a Government Contract. The contract terms require me to operate in accordance with 14 CFR (or hold an FAA operating certificate). The contracting government entity has provided a written declaration of public aircraft status.

(1) Does the FAA have Oversight of PAO Under this Contract? No, because the contracting government entity has made a declaration, that government entity has responsibility for the eligible PAO flights.

(2) Do I Still have to Comply with Regulatory Requirements Contained in the 14 CFRs? All aircraft, even those conducting eligible PAO, must comply with certain operating rules of the NAS (e.g., 14 CFR § 91.119, Minimum Safe Altitudes: General). Other requirements imposed through the terms of the contract, such as the requirement to hold an FAA 14 CFR part 135 certificate, would not be enforced or overseen by the FAA when PAO are being conducted.

d. What are the Legal Implications of Conducting a PAO? Contracting government entities must be aware that PAO performed by civil operators create a significant transfer of responsibility to the contracting government entity, and that most FAA oversight ceases.

(1) Contracted civil operators must be aware that unless there is a declaration of public aircraft status on file with the agency, the FAA considers all operations civil; civil operations must be conducted in accordance with all applicable civil aviation regulations. The FAA retains oversight and enforcement authority for any deviation from the provisions of 14 CFR until the agency is informed of the change in status to PAO by means of a written declaration.

(2) Additionally, civil operators are cautioned that it is their responsibility to refuse a contract to perform operations that would violate applicable 14 CFR regulations unless the operator is sure that the government entity offering the contract will be declaring them a public aircraft operation. It is the responsibility of the government entity and the operator to determine that each flight meets eligibility requirements for a PAO as required by the statute.

e. Does the Contracting Government Entity Have to Make a Declaration On a Flight-By-Flight Basis? No, but a determination should be made prior to each flight as to whether the flight will be public or civil in order to meet the terms of the statute. While it is necessary for the contracting parties to ensure that each PAO flight meets the statutory requirements, a written declaration to the FAA is not required for each flight.

f. What Should a Declaration Look Like? The FAA does not have specific format requirements for PAO declarations. The declaration must provide enough information to indicate who has operational responsibility for the flight. The need for information may vary between contracts and the entities involved. The FAA recommends that the following information be included in each declaration at a minimum:

- Name of civil operator (the contracted operator);
- Aircraft type(s) to be used for the PAO;
- Name of aircraft owner(s);
- Aircraft registration number(s);

- Date of contract;
- Date of proposed first flight as a PAO;
- Date of contract termination;
- Name of the government entity declaring public aircraft status (the government entity contracting for aircraft services);
- Name, title, and contact information for the government official making the declaration of PAO status; and
- Nature of operations (include enough detail to demonstrate that the flights qualify for PAO status under the statute).

g. Why Does the FAA Consider a Written Declaration Necessary? The FAA is implementing this policy to clarify oversight roles and responsibilities related to PAO status. The FAA is required to oversee all civil operations. To fulfill its statutory responsibility, the FAA needs to know when the status of a civil operator changes.

h. What if I Do Not Have a Written Declaration Before I Conduct a PAO? While the absence of a written declaration does not change the legal status of a valid PAO, until the FAA receives notice, the FAA considers all civil operations subject to FAA oversight, and the agency will enforce all applicable civil regulations.

i. Does the FAA Require a Civil Operator To Submit a Copy of Its Contract With a Government Entity? No; submission of a contract is optional. Submitting the contract does not replace the submission of a declaration.

j. Under FAA Policy, What are My Responsibilities as a Contracted Civil Operator? As a contracted civil operator, you are responsible for the following:

(1) If you are offered a contract to perform operations that could be contrary to 14 CFR civil regulations applicable to the operation, it is your responsibility to ensure that a written declaration of public aircraft status is on file with the FAA or to refuse the contract.

(2) Obtain a written declaration of public aircraft status from the contracting government agency prior to conducting any PAO flights.

(3) Provide a copy of the written declaration to the FSDO having oversight of your operation prior to conducting any PAO flights.

(4) In coordination with the contracting government entity, evaluate and determine that each flight qualifies as an eligible PAO under the terms of the statute. Operations that do not qualify as PAO remain subject to all civil regulations and FAA oversight and enforcement authority.

k. Under FAA Policy, What Are the Responsibilities of a Government Entity? As a government entity, you are responsible for the following:

- (1) Recognize that public aircraft status eligibility is determined by statute.

(2) Make a declaration of public aircraft status in advance and in writing to the operator when the government entity intends for the operator to conduct PAO.

(3) Understand that PAO represent a significant transfer of responsibility to the government entity and that the FAA does not provide oversight for those flights.

l. Under the FAA Policy, What are the Mutual Responsibilities of a Civil Operator and a Government Entity When Operating Under a Contract? Both parties must understand that:

(1) Even if a written declaration of PAO status has been made, the operator must continue to comply with certain 14 CFR regulations that affect all users of the NAS;

(2) Other regulations may apply even when operating a PAO (e.g., operating rules in parts 91, 133, and 137); and

(3) The FAA retains enforcement authority for any deviation from applicable provisions of 14 CFR.

(4) The FAA also advises both parties to consider whether PAO status is necessary or the flights may be conducted in accordance with the regulations in 14 CFR.

m. Is There a Flow Chart for Contracted Operations? No; the flow charts are designed to guide government entities through the terms of the statute to determine whether a particular operation is a valid PAO. Once a valid PAO is established, a government entity may hire a contractor to conduct that same operation for them. Since a contractor “stands in the shoes” of a government entity under a contract, the flights must be analyzed as if conducted by the government entity.

9. MAINTENANCE REQUIREMENTS FOR AIRCRAFT CONDUCTING PAO.

a. What are My Obligations Prior to Operating that Aircraft as a Civil Aircraft? If an aircraft is altered outside of its type certificate (TC) or not maintained under an FAA-accepted maintenance program during PAO, a conformity inspection is required to ensure the aircraft meets all civil regulations. The operator of an aircraft that has been operated in public aircraft status may not return the aircraft to service in civil operations without demonstrating that the aircraft meets all the criteria as prescribed by the regulations to hold its airworthiness certificate. For more information, contact your local FSDO.

b. Will I Have to Surrender My Aircraft’s Civil Airworthiness Certificate in Order to Conduct a PAO? No; an airworthiness certificate itself does not indicate that an aircraft is airworthy. An aircraft is considered airworthy if it:

- Confirms to its type design; and
- Is in a condition for safe operation.

10. OTHER QUESTIONS REGARDING PAO.

a. Who Do I Contact if I Have Questions about FAA Policy Regarding PAO? As a civil operator that contracts to conduct PAO, you should contact the FSDO responsible for oversight of your civil operating certificate or, for non-certificated operators, the FSDO with jurisdiction where you intend to conduct PAO. Legal interpretations of the public aircraft statute are handled by the FAA Office of the Chief Counsel, International Law, Legislation, and Regulations Division (see Appendix 2).

b. How Does the FAA Determine if a Government Entity Qualifies Under the Statutory Definitions in 49 U.S.C. § 40102(a)(41)(C) or (D)? The FAA has received several inquiries from universities and smaller local government agencies concerning their status under the statute. In some circumstances, a public entity may need to seek verification of its status under the public aircraft statute from its State Attorney General or other qualified state office. Upon request, the FAA can provide a letter detailing the specifics of the findings to be made by the state.

NOTE: Such a verification serves only as a determination of eligibility for PAO, not a determination that any particular operations are qualified PAO under the statute (see Appendix 2, State Government Entity or Political Subdivision Determination).

c. What Constitutes a “Commercial Purpose” that Removes Someone from PAO Status? In general, the FAA interprets the commercial purpose prohibition in 49 U.S.C. § 40125(a)(1) to mean that there can be no type of reimbursement to government entities for PAO, except under the one set of specific circumstances described in that section. Specific instances of whether an operation has a commercial purpose may be submitted for interpretation to the FAA Office of the Chief Counsel, International Law, Legislation, and Regulations Division (see Appendix 2). As detailed in Paragraph 8 above, a government entity may contract with a private operator (and pay that operator) to conduct a PAO on behalf of the government entity. The statutory prohibition on commercial purpose prevents a government entity from getting paid or reimbursed to operate a PAO, not for paying for contracted services.

d. By What Means Do I Certify to the “Administrator of the Federal Aviation Administration that the Operation was Necessary to Respond to a Significant and Imminent Threat to Life or Property and that No Service by a Private Operator is Reasonably Available to Meet the Threat” as required by 49 U.S.C. § 40125(a)(1)? The FAA recommends that the statutory certification be made in writing to the responsible FSDO within 10 days of the operation.

e. Are There Any Other Exceptions to PAO Definitions Applicable to the Government of a State, the District of Columbia, or a Territory or Possession of the United States or a Political Subdivision of One of these Governments as Defined in 49 U.S.C. § 40102(a)(41)(D)? Yes. The statute was changed in 2012 to allow certain leased aircraft (including contracted operations) to have public aircraft status even when not exclusively leased for at least 90 days. This provision, 49 U.S.C. 40125 (d), affects certain search and rescue operations. The statute contains specific qualifications for its use and requires a determination by

the FAA (see Appendix 1). Government entities seeking approval for PAO status under this paragraph must submit written documentation that addresses the statutory requirements to AFS-800 (see Appendix 2) and will receive a decision in writing from the FAA.

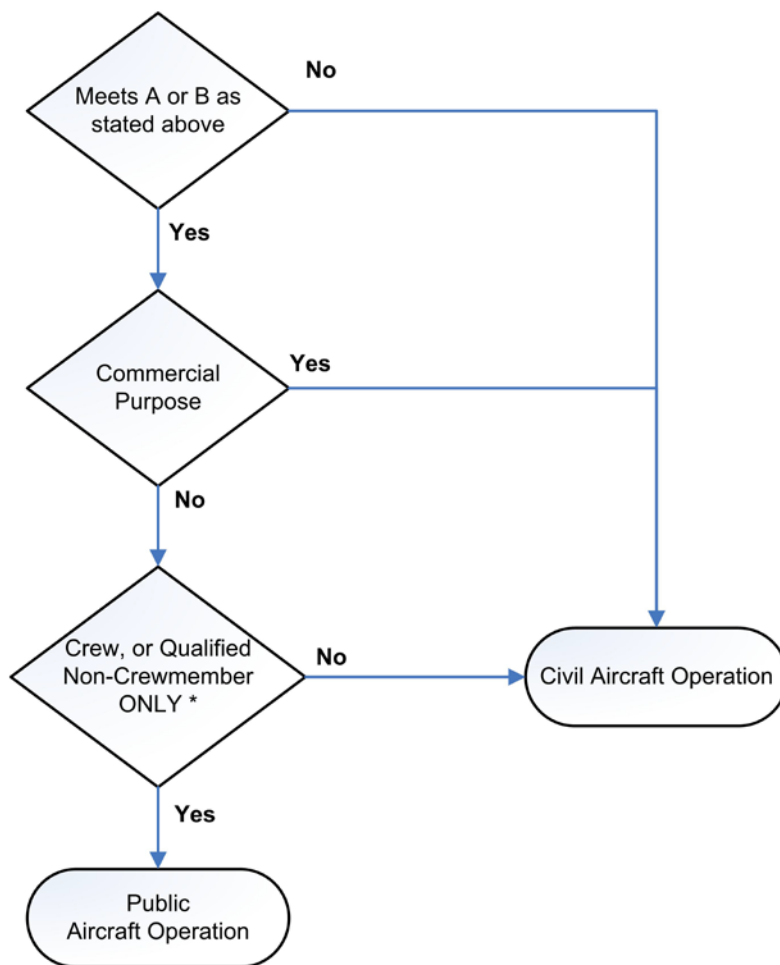
f. What Training Courses are Available for a Government Entity that Desires More Information on Developing Surveillance and Oversight Programs Similar to Those That the FAA Conducts? The FAA's Mike Monroney Aeronautical Center (MMAC) conducts training for FAA aviation safety inspectors (ASI) who conduct FAA oversight and surveillance. These courses may be made available to government entities upon request and based on availability. For more information, please contact the MMAC (see Appendix 2).

FIGURE 1. DECISION FLOW CHARTS FOR PAO

Decision Flow Chart for Federal Government Aircraft Operations

Section 40102(a)(41)(A): An aircraft used only for the United States Government.

Section 40102(a)(41)(B): An aircraft owned by the (U.S.) Government and operated for crew training, equipment development, or demonstration.



*** Citation:**

Section 40125(a)(3) Qualified non-crewmember - The term "qualified non-crewmember" means an individual, other than a member of the crew, aboard an aircraft:

(A) operated by the armed forces or an intelligence agency of the United States Government; or

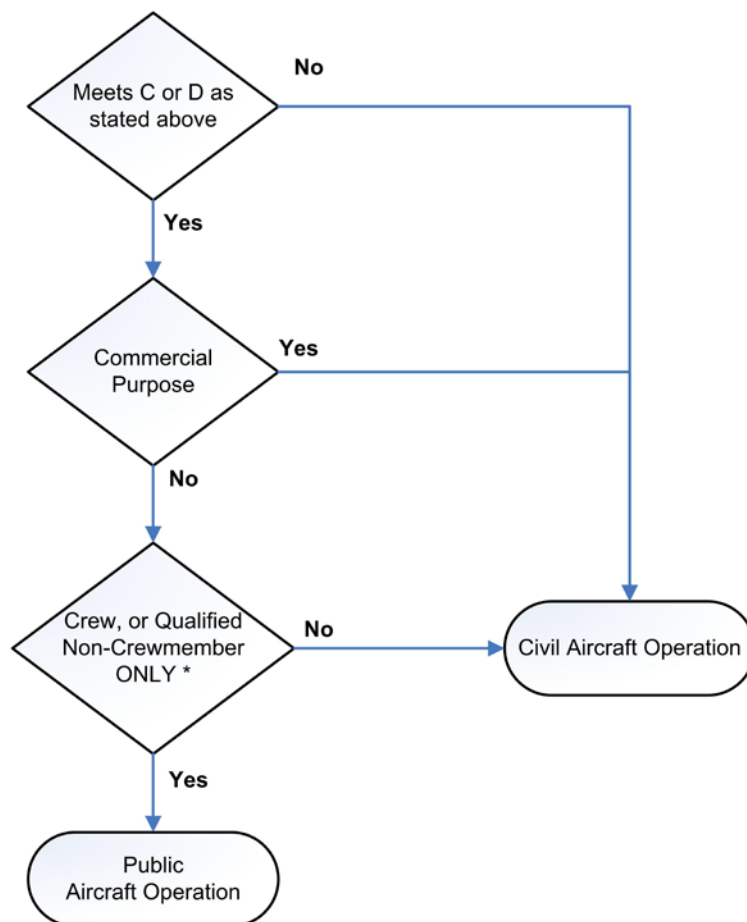
(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

FIGURE 1. DECISION FLOW CHARTS FOR PAO (Continued)

Decision Flow Chart for State Government Aircraft Operations

Section 40102(a)(41)(C): An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States, or a political subdivision (as determined by the Attorney General of the State) of one of these governments.

Section 40102(a)(41)(D): An aircraft **exclusively leased for at least 90 continuous days** by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision (as determined by the Attorney General of the State) of one of these governments.



*** Citation:**

Section 40125(a)(3) Qualified non-crewmember - The term "qualified non-crewmember" means an individual, other than a member of the crew, aboard an aircraft:

(B) whose presence is required to perform, or is associated with the performance of, a governmental function

11. PAO BY THE ARMED FORCES.

a. Operations of Armed Forces Aircraft. Operations by the Armed Forces of their own aircraft (or those they operate) are covered by 49 U.S.C. § 40125(c), including operations in accordance with Title 10 of the U.S.C. and those operated in performance of a governmental function under Titles 14, 31, 32, or 50 of the U.S.C., provided they are not used for a commercial purpose. The FAA does not make the determination of operation under any of these titles for the Armed Forces.

b. Public Aircraft Designation. Title 49 U.S.C. § 40125(c)(1)(C) provides that aircraft chartered to provide transportation or other commercial air service to the U.S. Armed Forces only qualify as PAO when the Secretary of Defense designates the operation of the chartered aircraft as required in the national interest. As discussed earlier in this AC, PAO status remains valid only within U.S. airspace. Similar to civil government contracted operations, all such chartered operations will be considered civil until the FAA has notice of the Secretary's designation.

NOTE: Civilian contractors to the Armed Forces that have valid public aircraft status under 49 U.S.C. § 40125(c) are subject to the FAA policy on submission of a written declaration to the FAA, as discussed in Paragraph 8 of this document.



John Barbagallo
Acting Director, Flight Standards Service

APPENDIX 1. PUBLIC AIRCRAFT STATUTE

Title 49 of the United States Code (49 U.S.C.) § 40102. Definitions.

(a) General Definitions.— In this part—

(41) “public aircraft” means any of the following:

(A) Except with respect to an aircraft described in subparagraph (E), an aircraft used only for the United States Government, except as provided in section 40125(b).

(B) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in section 40125(b).

(C) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(D) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in section 40125(b).

(E) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by section 40125(c). In the preceding sentence, the term “other commercial air service” means an aircraft operation that (i) is conducted within the United States territorial airspace; (ii) the Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public, and (iii) must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

Title 49 U.S.C. § 40125. Qualifications for Public Aircraft Status.

(a) Definitions. -- In this section, the following definitions apply:

(1) COMMERCIAL PURPOSES.—The term “commercial purposes” means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) **GOVERNMENTAL FUNCTION.**—The term “governmental function” means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(3) **QUALIFIED NON-CREWMEMBER.**—The term “qualified non-crewmember” means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) **ARMED FORCES.**—The term “armed forces” has the meaning given such term by section 101 of Title 10.

(b) **Aircraft Owned by Governments.** An aircraft described in subparagraph (A), (B), (C), or (D) of section 40102(a)(41) does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) **Aircraft Owned or Operated by the Armed Forces.**

(1) **IN GENERAL.**—Subject to paragraph (2), an aircraft described in section 40102(a)(41)(E) qualifies as a public aircraft if—

(A) the aircraft is operated in accordance with Title 10;

(B) the aircraft is operated in the performance of a governmental function under Titles 14, 31, 32, or 50 and the aircraft is not used for commercial purposes; or

(C) the aircraft is chartered to provide transportation or other commercial air service to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) designates the operation of the aircraft as being required in the national interest.

(2) **LIMITATION.**—An aircraft that meets the criteria set forth in paragraph (1) and that is owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, qualifies as a “Public Aircraft” only to the extent that it is operated under the direct control of the Department of Defense.

(d) **Search and Rescue Purposes.**— An aircraft described in section 40102(a)(41)(D) that is not exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of 1 of those governments, qualifies as a public aircraft if the Administrator determines that—

(1) There are extraordinary circumstances;

- (2) The aircraft will be used for the performance of search and rescue missions;
- (3) A community would not otherwise have access to search and rescue services; and
- (4) A government entity demonstrates that granting the waiver is necessary to prevent an undue economic burden on that government.

**NOTE: The official statute may be viewed on the Web site of the Government Printing Office at:
<http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE>**

APPENDIX 2. CONTACT INFORMATION

1. FLIGHT STANDARDS DISTRICT OFFICES (FSDO). If you have a question regarding the application of the information in this Advisory Circular, please contact your local FSDO. A list of FSDOs and the areas they serve is available on the FAA Web site, http://www.faa.gov/about/office_org/field_offices/fsdo/.

2. POLICY QUESTIONS. If you have an operational policy question, please contact the General Aviation and Commercial Division at http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs800/; or at the address below:

General Aviation and Commercial Division (AFS-800)
800 Independence Avenue, S.W.
Washington, DC 20591
Phone: (202) 385-9600
Fax: (202) 385-9597

3. AIRWORTHINESS OR MAINTENANCE POLICY QUESTIONS. If you have an airworthiness or maintenance policy question, please contact the Aircraft Maintenance Division at http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/afs/afs300/; or at the address below:

Aircraft Maintenance Division (AFS-300)
5th Floor, 950 L'Enfant Plaza, S.W.
Washington, DC 20024
Phone: (202) 385-6435
Fax: (202) 385-6474

4. UNMANNED AIRCRAFT SYSTEMS QUESTIONS. If you have an unmanned aircraft system question, please contact the Unmanned Aircraft Systems Integration Office at <http://www.faa.gov/about/initiatives/uas/>; or at the address below:

Unmanned Aircraft Systems Integration Office (AFS-80)
490 L'Enfant Plaza, Suite 3200
Washington, DC 22024
Phone: (202) 385-4835
Fax: (202) 385-4559

Appendix 2

5. LEGAL QUESTIONS. If you have a legal question or would like to request a legal interpretation, please contact the Office of the Chief Counsel at http://www.faa.gov/about/office_org/headquarters_offices/agc/; or at the address below:

Office of the Chief Counsel
International Law, Legislation, and Regulations Division (AGC-200)
800 Independence Avenue, S.W.
Washington, DC 20591
Phone: (202) 267-3073
Fax: (202) 267-7971

6. TRAINING. If you are a government entity and would like to attend an FAA training course, please contact http://www.faa.gov/about/office_org/headquarters_offices/arc/programs/academy/contact/; or at the address below:

AMA-1
Building 12, Room 129
P.O. Box 25082
Oklahoma City, OK 73125
Phone: (405) 954-6900
Fax: (405) 954-3018



Overview of Small UAS Notice of Proposed Rulemaking

Summary of Major Provisions of Proposed Part 107

The following provisions are being proposed in the FAA's Small UAS NPRM.

Operational Limitations	<ul style="list-style-type: none">• Unmanned aircraft must weigh less than 55 lbs. (25 kg).• Visual line-of-sight (VLOS) only; the unmanned aircraft must remain within VLOS of the operator or visual observer.• At all times the small unmanned aircraft must remain close enough to the operator for the operator to be capable of seeing the aircraft with vision unaided by any device other than corrective lenses.• Small unmanned aircraft may not operate over any persons not directly involved in the operation.• Daylight-only operations (official sunrise to official sunset, local time).• Must yield right-of-way to other aircraft, manned or unmanned.• May use visual observer (VO) but not required.• First-person view camera cannot satisfy "see-and-avoid" requirement but can be used as long as requirement is satisfied in other ways.• Maximum airspeed of 100 mph (87 knots).• Maximum altitude of 500 feet above ground level.• Minimum weather visibility of 3 miles from control station.• No operations are allowed in Class A (18,000 feet & above) airspace.• Operations in Class B, C, D and E airspace are allowed with the required ATC permission.• Operations in Class G airspace are allowed without ATC permission• No person may act as an operator or VO for more than one unmanned aircraft operation at one time.• No careless or reckless operations.• Requires preflight inspection by the operator.• A person may not operate a small unmanned aircraft if he or she knows or has reason to know of any physical or mental condition that would interfere with the safe operation of a small UAS.• Proposes a microUAS option that would allow operations in Class G airspace, over people not involved in the operation, provided the operator certifies he or she has the requisite aeronautical knowledge to perform the operation.
Operator Certification and Responsibilities	<ul style="list-style-type: none">• Pilots of a small UAS would be considered "operators".• Operators would be required to:<ul style="list-style-type: none">○ Pass an initial aeronautical knowledge test at an FAA-approved knowledge testing center.○ Be vetted by the Transportation Security Administration.

	<ul style="list-style-type: none"> ○ Obtain an unmanned aircraft operator certificate with a small UAS rating (like existing pilot airman certificates, never expires). ○ Pass a recurrent aeronautical knowledge test every 24 months. ○ Be at least 17 years old. ○ Make available to the FAA, upon request, the small UAS for inspection or testing, and any associated documents/records required to be kept under the proposed rule. ○ Report an accident to the FAA within 10 days of any operation that results in injury or property damage. ○ Conduct a preflight inspection, to include specific aircraft and control station systems checks, to ensure the small UAS is safe for operation.
Aircraft Requirements	<ul style="list-style-type: none"> ● FAA airworthiness certification not required. However, operator must maintain a small UAS in condition for safe operation and prior to flight must inspect the UAS to ensure that it is in a condition for safe operation. Aircraft Registration required (same requirements that apply to all other aircraft). ● Aircraft markings required (same requirements that apply to all other aircraft). If aircraft is too small to display markings in standard size, then the aircraft simply needs to display markings in the largest practicable manner.
Model Aircraft	<ul style="list-style-type: none"> ● Proposed rule would not apply to model aircraft that satisfy all of the criteria specified in Section 336 of Public Law 112-95. ● The proposed rule would codify the FAA's enforcement authority in part 101 by prohibiting model aircraft operators from endangering the safety of the NAS.