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**RESOLUTION  
IN SUPPORT OF AMENDING  
THE CODE OF FEDERAL REGULATIONS  
(14 CFR, PARTS 1 AND 119.1)**

**WHEREAS**, the Code of Federal Regulations (14 CFR Part 1) permits the operation of an aircraft 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 (FAA) that the operation is 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; and

**WHEREAS**, the FAA has interpreted “reasonably available” as “able at the time of the threat to deliver aircraft capable of performing the minimum tasks necessary;” and

**WHEREAS**, a government aircraft operator can accept reimbursement as a civil aircraft if they comply with applicable federal aviation regulations, to include requiring an appropriate and current airworthiness certificate and possibly certification as a commercial operator. However, hundreds of government operators utilize surplus military aircraft which are ineligible for airworthiness certificates; and

**WHEREAS**, the Code of Federal Regulations (14CFR Part 119.1) exempts certain commercial operations, such as aerial survey and firefighting, allowing operators to be reimbursed. However, disaster operations such as search and rescue, emergency medical evacuation, and law enforcement are not exempt requiring the government operator to be a certified commercial operator; and

**WHEREAS**, unless government operators routinely conduct commercial operations, it is impractical and, in some cases impossible, to obtain this certification; and

**WHEREAS**, disasters strike the United States every year and often require the immediate assistance of government operators. In these situations, “time is of the essence” and emergency response aircraft should be deployed without the

inevitable delay of determining if commercial operators are available to perform “the minimum tasks necessary.” Similarly, expecting government agencies to refuse reimbursement because of the certification requirement, or definition by the FAA of commercial purposes, is unrealistic; and

**WHEREAS**, law enforcement agencies supporting other agencies, in particular multi-jurisdictional task forces, are not able to be reimbursed for the operation of their aircraft or share in seized assets based on air support, since they would have to be certified as a commercial operators to accept compensation. These types of “aerial work operations” are more often than not, sensitive in nature making the use of commercial operators impractical and/or impossible.

**THEREFORE BE IT RESOLVED THAT** the Airborne Law Enforcement Association, Inc. supports amending 14 CFR Part 1, Public Aircraft definition (1) (i) by adding the following to the end of the paragraph:

*Such certification shall not be necessary in the event of a declaration by the President of the United States that a major disaster exists, or when the governor of a state declares that a state of emergency exists within that state and reimbursement is required, or provided pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288)<sup>1</sup>, the Emergency Management Assistance Compact (Public Law 104-321)<sup>2</sup>, or any local mutual aid compact. Further, as it relates to the definition of commercial purposes, reimbursement pursuant to the above shall not be considered compensation and shall have no impact on the public aircraft status of the operation.*

**BE IT FURTHER RESOLVED THAT** the Airborne Law Enforcement Association, Inc. supports amending 14 CFR Part 119.1 (e) (4) by adding the following:

*(vii) Law enforcement*

*Adopted by the Airborne Law Enforcement Association Board of Directors on July 16, 2008.*

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<sup>1</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288. Subsequent to a Presidential declaration, public assistance grants are divided into seven categories. Category B addresses Emergency Protective Measures and includes activities undertaken to eliminate or reduce an immediate threat to life, public health, or safety such as search and rescue, emergency medical care, and security in the disaster area. Further, Section 420 of the Act authorizes the President to provide assistance, including grants, to any state for the suppression of any fire which threatens such destruction as would constitute a major disaster. Federal share of assistance is not to be less than 75 percent of eligible costs.

<sup>2</sup> Emergency Management Assistance Compact (EMAC). Provides for member states to request and receive immediate assistance from other member states during Governor-declared states of emergencies. EMAC specifically identifies fire services, law enforcement and emergency medical transportation as the types of services that may be needed. Further, EMAC provides for the state rendering aid to be reimbursed for the “expense incurred in the operation of any equipment and the provision of any service in answering a request for aid...”