U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

NOV 24 2010

George Braly
Head of Engineering
General Aviation Modifications, Inc.
2800 Airport Rd. Hangar A
Ada, OK 74820

Dear Mr. Braly,

This is in response to your September 20, 2010, letter asking whether the FAA has the authority to add requirements to advisory circular AC20-24B without going through the notice and comment process. Your letter asks a broad legal question and does not provide any specific background information. As such, this response is limited to answering your broad question of whether the FAA can "add requirements" to AC20-24B without going through the notice and comment process. This response does not address whether AC20-24B applies to your specific situation, and this response also does not address what type of actions would constitute adding "additional requirements" to AC20-24B.

An advisory circular is a document created by the FAA that is intended to provide guidance to the aviation community about how to comply with the FAA's regulations. As the name implies, an advisory circular is "advisory", and because it is neither a regulation nor an official interpretation of a regulation, an advisory circular has no regulatory effect. *See* Nov. 30, 1977, Letter to John Chevalier, Jr. from Neil R. Eisner, Assistant Chief Counsel for Regulations and Enforcement (noting that while an advisory circular "has no regulatory effect," it can provide detailed guidance to the regulated entities); July 25, 1977, Letter to Robert E. Little, Jr. from Neil R. Eisner, Assistant Chief Counsel for Regulations and Enforcement (stating that an advisory circular "is neither regulatory nor interpretive of the regulation"). *See also Gorman v. National Transportation Safety Bd.*, 558 F.3d 580, 582, 587-89 (D.C. Cir.), *cert. denied.*, 130 S.Ct. 374, 175 L.Ed.2d 157 (2009) (upholding an FAA interpretation that properly interpreted the pertinent regulations, but contradicted an advisory circular); *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. New York State Dept. of Environmental Conservation*, 17 F.3d 521, 535 (1st Cir. 1994) (holding that an EPA advisory circular "is not a regulation").

Because an advisory circular does not have any regulatory effect, the FAA may add guidance to an advisory circular, such as AC20-24B, without notice and comment so long as that guidance is consistent with the pertinent regulation.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Alex Zektser, Attorney, Regulations Division of the Office of the Chief Counsel.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200