

VOLUME 3 GENERAL TECHNICAL ADMINISTRATION**CHAPTER 11 USE OF AIRCRAFT ISSUED EXPERIMENTAL AIRWORTHINESS CERTIFICATES IN FLIGHT INSTRUCTION FOR COMPENSATION OR HIRE****Section 1 Use of Aircraft Issued Experimental Certificates in Flight Training for Compensation or Hire****3-291 BACKGROUND.****A. Limitations on the Operation of Aircraft Issued Experimental Certificates.**

1) Title 14 of the Code of Federal Regulations (14 CFR) part 91, § 91.319 states that:

“(a) No person may operate an aircraft that has an experimental certificate—

- (1) For other than the purpose for which the certificate was issued; or
- (2) Carrying persons or property for compensation or hire.”

2) Title 14 CFR part 21, § 21.191 states that experimental certificates are issued for the following purposes:

- Research and development.
- Showing compliance with regulations.
- Crew training.
- Exhibition.
- Air racing.
- Market surveys.
- Operating amateur-built aircraft.
- Operating primary kit-built aircraft.
- Operating light-sport aircraft (LSA).

NOTE: The term “crew training” does not permit for-hire pilot flight training.

B. Additional Limitations on the Operation of LSA Issued Experimental Certificates under § 21.191(i).

1) Section 91.319(e) states that “no person may operate an aircraft that is issued an experimental certificate under § 21.191(i)...for compensation or hire, except a person may operate an aircraft issued an experimental certificate under § 21.191(i)...” to conduct specified towing operations or to conduct flight training in an aircraft that person provides prior to January 31, 2010.

2) Section 91.319(f) states that no person may lease an aircraft issued an experimental certificate under § 21.191(i) except to conduct the towing operations specified in § 91.319(e)(1).

C. Provision for Issuance of Deviation Authority. Section 91.319(h) permits the Federal Aviation Administration (FAA) to issue a Letter of Deviation Authority (LODA) to an applicant for the purpose of conducting flight training when the aircraft intended to be used will not be operated for a purpose for which its certificate was issued, or when the aircraft will be used to carry persons or property for compensation or hire. Issuance of a LODA permits the LODA holder to provide flight training for compensation or hire in an experimental aircraft which the LODA holder provides.

D. Authorization to Act as Pilot in Command (PIC) of Certain Experimental Aircraft. An applicant who seeks to operate an experimental aircraft as PIC when the aircraft operating limitations specify that the PIC must possess an FAA-issued authorization must receive training from a qualified instructor. Guidance regarding the issuance of these authorizations is in Volume 5, Chapter 9, Section 2.

3-292 FLIGHT TRAINING IN EXPERIMENTAL AIRCRAFT.

A. Use of Experimental Aircraft for Flight Training. Persons may receive, and provide compensation for, flight training in an aircraft holding an experimental certificate issued for any of the purposes specified in § 21.191. Other than the person receiving flight training, the operation must not involve the carriage of persons or property for compensation or hire or be prohibited by the aircraft's operating limitations.

B. Flight Instructors. Flight instructors may receive compensation for providing flight training in an experimental aircraft, but may not receive compensation for the use of the aircraft in which they provide that flight training unless in accordance with a LODA issued under § 91.319(h) and as described in paragraph 3-293. An experimental aircraft owner may not rent an experimental LSA to a person for the purpose of conducting solo flight.

C. Experimental Aircraft Owners. Owners of experimental aircraft may receive, and provide compensation for, flight training received in their aircraft. An owner of an experimental aircraft may not receive compensation for the use of their aircraft to provide flight training except in accordance with a LODA issued under § 91.319(h) and described in paragraph 3-293. An owner of an experimental LSA may not rent the experimental LSA to a person for the purpose of conducting solo flights.

D. Flight in Experimental Aircraft. The FAA does not require flight instructors, pilot examiners, and aviation safety inspectors (ASI) to fly in experimental aircraft. The decision whether or not to provide flight training or conduct a check in an experimental aircraft is left to the discretion and judgment of the individual.

3-293 ISSUANCE OF A LODA FOR THE PURPOSE OF CONDUCTING FLIGHT TRAINING UNDER § 91.319(H).

A. Purpose. This section provides information about the issuance of a LODA for conducting flight training. Flight Standards Service (AFS) field inspectors issue these deviations using the Web-based automated Operations Safety System (WebOPSS) in accordance with § 91.319(h).

B. Background.

1) Section 91.319(a) prohibits the operation of an experimental aircraft for other than the purpose for which the certificate was issued or to carry persons or property for compensation or hire. These restrictions prohibit the widespread use of experimental aircraft for flight training for compensation or hire. The FAA recognizes the value of specialized flight training that may only be available in aircraft holding experimental certificates. In the past, the FAA issued exemptions to § 91.319(a) to allow owners to rent their aircraft for the purpose of providing specialized flight training. To reduce the burden on owners and operators, the FAA published a revision to § 91.319 on July 27, 2004. That revision permits the issuance of a deviation to allow a person to conduct flight training in an aircraft that person provides and to receive compensation for that activity. To provide a streamlined and standardized process for the issuance of deviations to permit this flight training to be conducted, the FAA developed a LODA located in the WebOPSS.

2) ASIs may issue flight training deviations using the guidance in this section. ASIs must issue all deviations using the LODA Template A115, Deviation Authority for Conducting Flight Training in Experimental Category Aircraft, found in the part 91 database of the WebOPSS. Use of the WebOPSS will ensure that all deviations have the correct special conditions and provide for national tracking of the deviations. The FAA will issue training deviations to permit the conduct of training that can only be accomplished in aircraft with experimental certificates. LODAs should not be issued to permit flight training in experimental aircraft leading toward the issuance of a pilot certificate, rating, or operating privilege. The exception is for training leading to the issuance of a specific experimental aircraft authorization as required by the aircraft's operating limitations or for rotorcraft gyroplane training at all levels or for a Sport Pilot Certificate or operating privilege. LODAs also should not be issued to permit flight training such as aerobatics or training leading to the issuance of an endorsement (e.g., tailwheel or pressurized aircraft, or a complex or high performance airplane). This training is available in aircraft holding Standard Airworthiness Certificates and it is therefore not acceptable to issue a LODA for the purpose of conducting such training. Flight training considered acceptable for the issuance of a LODA consists of:

- a) Flight training for the operation of a specific make and model of experimental aircraft.
- b) Training for the operation of ultralight vehicles only when conducted in low-mass, high-drag aircraft with an empty weight less than 500 pounds and a maximum speed in level flight with maximum continuous power (V_H) less than 87 Knots Calibrated Airspeed (KCAS).
- c) Jet unusual attitude and upset training.
- d) Instrument competency training for specific make and model of experimental aircraft.
- e) Training for a flight review in a specific make and model of experimental aircraft.

- f) Formation training for a specific make and model of experimental aircraft.
- g) Training for a rotorcraft gyroplane rating or certificate.

h) Training for a Sport Pilot Certificate or operating privilege. Flight training leading toward the issuance of a Sport Pilot Certificate or LSA operating privilege is to be conducted in an aircraft issued an experimental certificate under § 21.191(i)(1). A LODA should only be issued if an aircraft with other than an experimental certificate under § 21.191(i)(1) is not available for the conduct of this training in the Flight Standard District Office's (FSDO) geographic area. The aircraft used to provide the training must have been owned by the person providing the training prior to January 31, 2010 and that person must have been appropriately certificated or otherwise authorized to provide that training prior to January 31, 2010. LODAs for persons conducting this training will have a maximum duration of 24 months and will be limited to the geographic area of the FSDO's responsibility. FSDOs may terminate a LODA for sport pilot training at its discretion.

i) Other specific training approved by the General Aviation and Commercial Division, AFS-800.

C. Requirements.

1) A person applying to conduct flight training in an experimental aircraft that person provides for compensation or hire must submit an application package to the FSDO in the district in which the training will take place. The application package must include a letter identifying the name and address of the applicant, the name and contact information of the person responsible for the operation, details of the type of training, and the specific aircraft make(s) and model(s) to be used. The applicant must also provide copies of each aircraft's airworthiness certificate, including the FAA-issued operating limitations and a training program, as specified in subparagraph 3-293D.

2) The applicant must provide a training program with enough detail that the ASI is able to determine that the proposed training will meet the intended objectives.

D. FAA Procedure.

1) When the FAA receives an inquiry from a person proposing to conduct flight training in an experimental aircraft, the assigned Operations ASI should determine if the applicant is aware of the LODA process. The ASI should provide the applicant with the information contained in this section as necessary, and advise the applicant to schedule a meeting to present the formal application to the FSDO. After receipt of the formal application, the assigned ASI will review the application to ensure that it meets the requirements as outlined in this section. If the proposed training covers areas not authorized by this section, the ASI must advise the applicant that the proposal does not meet FAA guidelines. If the ASI considers the proposed training to be such that the FAA should consider it even though it is outside of the areas listed in subparagraph 3-293B2), the request must be referred to AFS-800. If the proposed training involves experimental LSA, AFS-800 will coordinate with AFS-600. If the training program meets the requirements of this section, the ASI should coordinate with the airworthiness unit to ensure that the aircraft meets all appropriate airworthiness requirements for the type of

experimental airworthiness certificate that it holds. If all of the applicant's submissions meet the requirements of this section, the ASI should enter the applicant's information into the WebOPSS and issue paragraphs A001, A004, and A115 using the guidance provided for the use of WebOPSS.

2) The FSDO review of the training program(s) must ensure that the following information is included:

a) A description of each type of audiovisual aid, mockup, chart, aircraft component, and other special training aids used in any associated ground training (if applicable);

b) A description of each flight simulator or flight training device (FTD) used in any associated training (if applicable);

c) A description of any special equipment used for each phase of training;

d) The qualifications and ratings for each instructor providing flight training or ground training; and

NOTE: Instructors must hold a flight instructor certificate appropriate to the flight training to be conducted or be otherwise authorized to conduct flight training in the specific aircraft.

e) A training outline that includes the following information:

- The prerequisites for persons receiving ground and flight training, to include minimum pilot certificate, ratings, endorsements (e.g., tailwheel, high performance, complex) training, experience, and knowledge requirements;

NOTE: For flight training in aircraft other than those certificated under § 21.191(i) or in gyroplanes under §21.191(g), pilots receiving training must hold appropriate category and class ratings and have logbook endorsements in accordance with 14 CFR part 61, § 61.31 for the type of aircraft in which the training is to be provided, unless specifically approved by AFS-800.

- A description of each unit of instruction, including the objectives, standards, and planned time for completion; and
- The expected accomplishments and the standards for each stage of training.

3) If the application package and training program are acceptable, the FSDO will review the experimental aircraft's operating limitations to ensure that the proposed training will not be contrary to any limitation other than those for which relief is granted under the LODA. An applicant may also request that the operating limitations for the aircraft intended to be used for flight training be amended to conform to the relief provided by the LODA.

4) Aircraft not inspected in accordance with an FAA-approved inspection program must have an operating limitation requiring a condition inspection within the preceding 100 hours of time in service.

E. Issuance of the Authorization. After completing the review in accordance with subparagraph 3-293D, the FSDO will enter the necessary information into the WebOPSS to issue paragraph A115 for the LODA. The FSDO will enter the operator as a 91J operator. The FSDO will use the operator information to create a 91J operator through the “Maintain Operator Status” function. The FSDO will add operator information, including address, responsible person (91J-training), and specific aircraft information to the database by using “Maintain Operations Specifications” under the pull-down menu. After the FSDO personnel enters the information in accordance with the WebOPSS guidance, select templates A001, A004, and A115 and complete them in the WebOPSS workspace. FSDO personnel can then sign, activate, and print the three paragraphs. The FAA and the applicant can then sign the completed three-paragraph LODA and issue it to the applicant. FSDO personnel should refer to this order for guidance concerning the WebOPSS system. FSDO personnel may also direct questions concerning the use of the WebOPSS system to the Automated Operations Safety System (OPSS) office.

RESERVED. Paragraphs 3-294 through 3-310.