

NOTICE

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION

N 8900.588

National Policy

Effective Date:
7/15/21

Cancellation Date:
7/15/22

SUBJ: Flight Instruction in Aircraft Holding Experimental Category Special
Airworthiness Certificates

1. Purpose of This Notice. This notice provides clarification on flight training for compensation in certain aircraft that hold Special Airworthiness Certificates in the experimental category. It provides guidance on how flight training for compensation can be accomplished in these aircraft in compliance with regulations and describes an interim process for Flight Standards District Office (FSDO) managers to issue a Letter of Deviation Authority (LODA) to owners of experimental aircraft and flight instructors providing flight training for compensation in experimental aircraft, in accordance with Title 14 of the Code of Federal Regulations (14 CFR) part 91, § 91.319(h), when no compensation is provided for use of the aircraft.

Note: The parameters under which the interim process to obtain a LODA may be exercised by an applicant are found in the Notification of Policy for Flight Training in Certain Aircraft (“the Policy”), published in the Federal Register (FR) on July 12, 2021. This interim process cannot be utilized outside the parameters of the Policy.

2. Audience. The primary audience for this notice is Flight Standards (FS) General Aviation Safety Assurance (GASA) personnel. The secondary audience includes the Safety Standards and Foundational Business offices.

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee website at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management Systems (FSIMS) at <https://fsims.avs.faa.gov>. Operators can find this notice on the Federal Aviation Administration’s (FAA) website at <https://fsims.faa.gov>. This notice is available to the public at https://www.faa.gov/regulations_policies/orders_notices.

4. Background. On April 2, 2021, the United States District Court for the District of Columbia Circuit dismissed a petition for review of an FAA emergency cease and desist order, ordering that the operator cease and desist from operating his limited category aircraft in violation of § 91.315. In this case, the operator maintained a publicly available website that advertised opportunities to fly in its limited category aircraft at upcoming air shows and allowed members of the public to book flights in exchange for substantial amounts of money. Section 91.315 states

that “no person may operate a limited category aircraft carrying persons or property for compensation or hire.”

a. Before the Court, the operator argued that it was conducting flight training for compensation in its limited category aircraft, which it claimed is not prohibited under § 91.315. The Court disagreed and denied the petition for review of the FAA’s cease and desist order, finding there was substantial support for the agency’s position that, under the plain language of § 91.315, flight training for compensation constitutes operating a limited category aircraft carrying a person for compensation or hire and, therefore, is a violation of the regulation. The prohibition in § 91.319 for experimental aircraft that mirrors the language in § 91.315 must be read to have the same meaning.

b. The FAA has long emphasized the importance of pilots being trained and checked in the aircraft they will operate. Specifically, it is critical that pilots understand and are familiar with the particular systems, procedures, operating characteristics, and limitations of the aircraft that they will operate. This flight training is distinct from a situation where an aircraft with a Special Airworthiness Certificate is “held out” broadly for training to individuals who pay for both the flight training and the use of an aircraft.

5. Interim Process to Obtain an Experimental Aircraft LODA. To obtain a LODA, owners of experimental aircraft and flight instructors providing flight training in experimental aircraft may submit a request to 9-AVS-AFG-LODA@faa.gov. Applicants seeking a LODA through this process must adhere to the parameters of the Policy and provide the following information:

- Name.
- Address.
- Email address.
- Pilot certificate number.
- Flight instructor certificate number (if applying as a certificated flight instructor (CFI)).
- Aircraft registration number (if applying as an owner).
- Aircraft make/model in which you will receive or provide instruction.
- Aircraft home base airport (if applying as an owner).

a. Applications submitted to the email address above will be reviewed and then provided to GASA personnel for signature. The LODA will be issued to the applicant via email and tracked via the Knowledge Services Network (KSN) LODA Tracker. A link to this tracker will be provided in the email to FSDOs sent from the LODA mailbox. A copy of the LODA must be carried on board the aircraft during flight training conducted under the LODA.

Note: Although the Policy requires CFIs to submit a list of aircraft in which they intend to instruct, the list will not be included on the LODA. The “Aircraft Make(s)/Model(s)” box in Table 1 of the LODA will be left as “N/A” for CFIs, because the LODA authorizes a CFI to exercise the privileges of the LODA in any experimental aircraft for which he or she is qualified and authorized to provide flight training.

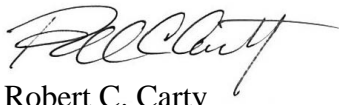
b. Applications that are later found to lack compliance with the provisions of the Policy may be canceled or amended at any time. LODAs generated under this process will expire 48 calendar-months from the date of issue and may be canceled or amended at any time.

c. This process does not preclude any individual from seeking a LODA in accordance with published FAA Order 8900.1 guidance. This process is not to be utilized for applicants who would otherwise be required to hold a LODA under Order 8900.1, Volume 3, Chapter 11, Section 1, Use of Aircraft Issued Experimental Certificates in Flight Training for Compensation or Hire. The guidance found in Order 8900.1, Volume 3, Chapter 11, Section 1, subparagraphs 3-292A, B, and C is superseded by this notice.

6. Action. Provide interested parties with guidance for the interim LODA process. Completed applications will be forwarded to the applicable FSDO for signature and issuance (refer to the flowchart at <https://ksn2.faa.gov/AVS/AFG1/Shared%20Documents/LODA%20Flowchart.pdf>). An applicant is considered eligible for the LODA once he or she has submitted all information identified in the Policy. It is the applicant's responsibility to ensure that the information submitted to the FAA is correct and that they are eligible for the LODA. The FSDO manager or his or her delegate will sign and issue the LODA via the email address provided by the applicant and note completion via the KSN Tracker mentioned above.

Note: See the sample LODA in Appendix A below. A fillable LODA template can be found at https://www.faa.gov/licenses_certificates/vintage_experimental/examiners/media/LODA_Template.pdf.

7. Disposition. We will incorporate the information in this notice into Order 8900.1 before this notice expires. Direct questions or comments concerning the information in this notice to the General Aviation and Commercial Division Operations Group (AFS-830), General Aviation Operations Section at 9-AFS-800-Correspondence@faa.gov.



Robert C. Carty
Deputy Executive Director, Flight Standards Service

Appendix A. Sample Interim LODA**14 CFR Part 91 Operations**

U.S. Department
of Transportation
Federal Aviation
Administration

Letter of Deviation Authority
Deviation Authority for Conducting Flight Training in
Experimental Category Aircraft (14 CFR Section 91.319 (h))

A. The owner (or delegate) or authorized instructor listed at the bottom of this document is authorized this Letter of Deviation Authority (LODA) in accordance with the provisions of Title 14 Code of Federal Regulations (CFR) Section 91.319(h) to the extent necessary to receive or provide aircraft-specific training in an aircraft certificated in the experimental category in accordance with the limitations and provisions of this LODA.

The authorizations granted by this LODA are limited in scope to the Notification of Policy for Flight Training in Certain Aircraft (published in the Federal Register on July 12, 2021).

B. Aircraft. A flight instructor is authorized to exercise the privileges of this LODA in any experimental aircraft for which he or she is qualified to provide flight training. The owner or operator is authorized to receive flight training in the following aircraft:

Table 1 – Aircraft

Aircraft Registration Number(s) (Owner Only)	Aircraft Make(s)/Model(s) (Experimental Only) (Owner Only)

C. Airworthiness. The aircraft listed in Table 1 above must:

- 1) Hold a valid United States airworthiness certificate granted in accordance with the provisions of the appropriate regulatory basis as noted in Table 1 of this LODA; and
- 2) Have completed Phase I flight testing and be operating in Phase II (if applicable) in accordance with the operating limitations made a part of the airworthiness certificate issued for the aircraft, or if in Phase I, may operate in accordance with the Additional Pilot Program identified in FAA Advisory Circular AC 90-116.

CI. Operating Limitations.


- 1) In accordance with § 91.9, the aircraft must be operated in accordance with the operating limitations made a part of the experimental airworthiness certificate, except for those limitations modified by this LODA.
- 2) The owner (or delegate) or instructor named below may receive and provide compensation for flight training in this aircraft, provided no compensation is received for the use of the aircraft. Compensation for the use of the aircraft includes expenses, including a pro rata share of expenses, such as (but not limited to) fuel, oil, airport expenditures, or rental fees.
- 3) Compensation for flight instruction is limited to the fair market value for that instruction.
- 4) Owners of experimental aircraft and flight instructors exercising the privileges of this LODA are restricted from advertising or broadly offering the use of their aircraft for flight training. Operations of that nature would require a LODA in accordance with FAA Order 8900.1, Volume 3, Chapter 11, Section 1, *Use of Aircraft Issued Experimental Certificates in Flight Training for Compensation or Hire*.
- 5) Operation under this LODA must comport to the parameters the Notification of Policy for Flight Training in Certain Aircraft (published in Federal Register on July 12, 2021).
- 6) This LODA expires 48 months from the date of issue, and may be canceled or amended at any time.
- 7) This document, or an electronic copy, must be carried for all operations conducted under this authority.

E. Owner or Authorized Instructor.

- 1) If the owner or authorized instructor named on this LODA relinquishes responsibility, this LODA becomes invalid.
- 2) Enter the date of issue and the name, e-mail address, and telephone number in Table 2 of the owner or authorized instructor signing this LOA:

Table 2 – Owner or Authorized Instructor

Name	Address	E-mail Address	Pilot/CFI Certificate No.	Home Airport

		
FSDO Manager Signature	FSDO	Date