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

800 Independence Ave., SW.
Washington, DC 20591

Robert Hucker
[redacted]

Dear Mr. Hucker:

In December 2005 you contacted the Office of the Chief Counsel to request an interpretation of Title 14, Code of Federal Regulations (14 CFR) section 91.303(c). In your written correspondence, you specifically sought "clarification on whether or not aerobatics can legally be performed within Class B airspace (with proper ATC clearance), and/or underneath the floors of Class B airspace." You also stated your belief that an earlier interpretation issued by this office was incorrect. We answer your questions below and we find that you correctly identified an error in an earlier interpretation.

Section 91.303(c) states:

> No person may operate an aircraft in aerobatic flight—Within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport;

Specifically, the question centered on the meaning of the phrase, "[w]ithin the lateral boundaries of the surface areas" and where the prohibition against aerobatic flight applies. The text of the regulation, definitions in the Pilot-Controller glossary, FAA order 7110.65L, and two previous interpretations issued by this office address this question but have led to contradictory understandings within the agency. This office now clarifies this issue definitively and, in doing so, reverses an earlier interpretation on this matter. This clarification has been coordinated with the Air Traffic Organization (ATO) and the Flight Standards Service (AFS).

The term "surface areas" refers only to those components of airspace that come in contact with the surface of the earth. In the case of Class B and Class C airspace that are composed of multiple, layered components and are very often shaped like an 'upside down wedding cake', the surface areas are only the inner-core components of the 'cake' that extend upwards from the airport surface to the ceiling of the airspace. The outer areas of Class B and Class C airspace, in which the floor of the airspace do not touch the surface of the earth are not "surface areas" as used in section 91.303(c). Aerobatics may be conducted in such outer areas provided that:

- The requirements of 91.130 or 91.131 are met as applicable; and
- The requirements of 91.303 (a),(b),(d),(e), and (f) are met

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When the floor of Class D and certain Class E airspace (designated for an airport) begins at the surface and extends upward, aerobatics are prohibited in accordance with section 91.303(c). However it should be noted that there are other Class E airspace areas that extend upward from some altitude above the surface, such as transition areas that extend upward from 700 or 1,200 feet above ground level. Such areas are not surface areas and aerobatic flight in these areas is not prohibited by section 91.303(c).

This interpretation of section 91.303(c) reverses the interpretation issued on July 14, 1999 in a letter to Earl Lawrence from Donald Byrne, Assistant Chief Counsel which you cited as incorrect. That earlier interpretation addressed the following question:

> Can aerobatic flight be performed outside of, but under the rings of Class B airspace where, in the opinion of EAA, the surface areas of Class B airspace can "only refer to the inner ring" because it is the only ring that extends to the surface?

In response to this question, the FAA replied in relevant part:

> Your letter states that EAA considers the floor to the innermost ring of Class B airspace as surface area. This definition is incorrect…[T]he surface area includes airspace at each lateral boundary or floor area of Class B airspace, without considering whether the boundary contacts the surface of the earth. The definition does not therefore limit a "surface area" to airspace that contacts the surface of the earth, nor does it provide an alternative definition for the floor area of the outermost rings. By this definition, aerobatic flight is not permitted with the vertical or lateral confines of Class B airspace.

Upon review, we conclude that the EAA was indeed correct in its understanding of "surface areas." The question of the applicability of section 91.303(c) recently reemerged in the context of a redesign of Class B airspace for the Minneapolis-St. Paul International Airport. Among the issues that were confronted was where aerobatics could be conducted with respect to the newly-redesigned airspace. In responding to your inquiry, we concluded that our 1999 interpretation was inconsistent with the term "surface area" as used by ATO airspace planners to describe only airspace that touches the surface of the earth. We trust this interpretation answers your question. Thank you for your inquiry.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel, Regulations