Federal Aviation Administration

Memorandum

Date:	March 2, 2015
To:	John S. Duncan, Director, Flight Standards Service, AFS-001
From:	Mark W. Bury, Assistant Chief Counsel for Regulations, AGC-200
Subject:	The FAA may not issue LODAs under 14 C.F.R. § 91.319(h) for space flight participant training.

This legal interpretation addresses whether the term "flight training," as used in 14 CFR § 91.319(h), includes space flight participant training, and accordingly, whether the FAA may issue a letter of deviation authority under that section to permit a person to operate an experimental aircraft for the purpose of conducting space flight participant training. The answer is no, because flight training does not include space flight participant training.

Title 14 CFR § 91.319(a) states that no person may operate an aircraft with an experimental certificate carrying persons for compensation or hire. Section 91.319(h) allows a deviation from this requirement for the purpose of conducting flight training. Flight training is defined as "training, other than ground training, received from an authorized instructor in flight in an aircraft." 14 CFR § 61.1. An authorized instructor, as defined in 14 C.F.R. § 61.1, is a ground instructor, flight instructor, or a person authorized by the Administrator to provide ground training or flight training under part 61, 121, 135, or 142. Throughout the regulations, flight training – whether for the purpose of meeting

certification requirements (e.g. parts 61 and 63) or operational requirements (e.g. parts 121, 125, 135) – exclusively pertains to the training of pilots or other flightcrew members (flight engineers and flight navigators) in the operation of an aircraft.

Space flight participants are not flightcrew members or crewmembers who will ultimately be assigned to a duty position in an aircraft. They are not receiving training from an authorized instructor for the purpose of operating an aircraft in accordance with the regulations. If the FAA had intended to broaden the historic understanding of flight training when promulgating the deviation authority in § 91.319, then an explanation should have been provided during the rulemaking process.

Accordingly, AFS-800 may not issue a LODA under section 91.319(h) for space flight participant training because it is not flight training as contemplated by the deviation from section 91.319(a). The FAA notes that this is contrary to suggestions made in its 2013 Denial of Petition for Reconsideration for an Exemption issued to Starfighters, Inc.,[1] and issues this legal interpretation for clarification.

[1] Denial of Petition for Reconsideration to Starfighters, Inc., Regulatory Docket No. FAA-2011-0937, February 11, 2013.