Memorandum

Date: OCT -5 2015

To: John Duncan, Director, Flight Standards Service, AFS-1

From: Lorelei Peter, Acting Assistant Chief Counsel for Regulations, AGC-200

Cc: Bruce DeCleene, Manager, Flight Technologies and Procedures Division, AFS-400

Subject: Legal Interpretation of 14 C.F.R. § 91.117 – Aircraft Speed

This memorandum responds to your request for legal interpretation dated July 2, 2015. You have asked for clarification regarding the maximum allowable speed for aircraft operating in Class C airspace that underlies Class B airspace. Based on our explanation below, aircraft operating in the airspace underlying Class B airspace may not be authorized by ATC to exceed the 200-knot speed limitation in § 91.117(c).

The FAA introduced airspeed requirements to part 91 in 1967 prior to the establishment of classes of airspace. 32 FR 15709 (Nov. 15, 1967). Former § 91.70(b) (current § 91.117) limited the speed of aircraft operating in airport traffic areas to 156 knots for reciprocating engine aircraft and 200 knots for turbine-powered aircraft unless otherwise authorized or required by the Administrator. Three years later, the FAA issued a final rule establishing Terminal Control Areas in the vicinity of certain major terminal areas and setting forth requirements for aircraft operating in those areas. 35 FR 7784 (May 21, 1970). That final rule added new paragraph (c) to § 91.70 and imposed a 200-knot speed limitation on aircraft operating in the airspace underlying a terminal control area. At the time the rule was proposed, the FAA explained that a more restrictive maximum speed was necessary due to the possibility of numerous uncontrolled operations in the airspace underlying the terminal control areas. 34 FR 15252 (Sept. 30, 1969).[1] No discretion was given to ATC to authorize an aircraft to operate in excess of the 200-knot limitation in this airspace.

When the FAA redesignated airspace into classes, the term "airport traffic area" in § 91.117(b) was replaced with the term "Class C or Class D airspace" and the term "terminal control area" in § 91.117(c) was replaced with the term "Class B airspace." 56 FR 65657 (Dec. 17, 1991). Current § 91.117(b) states that, "[u]nless otherwise authorized or required

[1] In 1973, the FAA again revised § 91.70(b) by excluding aircraft operating in terminal control areas from the 200-knot speed limitations in that paragraph and instead required aircraft in terminal control areas to comply with the less restrictive 250-knot limitation applied to other aircraft operating below 10,000 feet MSL. The FAA based this change on the fact that aircraft operating in terminal control areas are subject to positive air traffic control.

by ATC, no person may operate an aircraft at or below 2,500 feet above the surface within 4 nautical miles of the primary airport of a Class C or D airspace area at an indicated airspeed of more than 200 knots (230 m.p.h.)." Section 91.117(c) states that "no person may operate an aircraft in the airspace underlying a Class B airspace area designated for an airport or in a VFR corridor through such a Class B airspace area, at an indicated airspeed of more than 200 knots (230 m.p.h.)."

Section 91.117(c) does not include any discretion that would permit ATC to authorize an aircraft to operate at a speed in excess of the 200-knot limitation.[2] Likewise, the regulation contains no exception for aircraft operating in controlled airspace underlying Class B airspace. Accordingly, under the express language of the regulation, aircraft operating in the airspace underlying Class B airspace – irrespective of whether the underlying airspace is controlled or uncontrolled – may not exceed the 200-knot speed limitation. We note § 91.117(d) does provide that, if the minimum safe airspeed for any particular operation is greater than the maximum speed prescribed in § 91.117, then an aircraft may be operated at that minimum speed.

[2] Section 91.117 is included in the list of rules subject to waivers in § 91.903.