NOTICE

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

N 8900.372

National Policy

Effective Date:
7/27/16

Cancellation Date:
7/27/17

SUBJ: Certificate of Waiver for an Aerobatic Practice Area

1. Purpose of This Notice. This notice addresses a Certificate of Waiver (CoW) (Federal Aviation Administration (FAA) Form 7711-1, Certificate of Waiver or Authorization) for an aerobatic practice area (APA) issued in accordance with FAA Order 8900.1, Volume 3, Chapter 5, Section 1, Issue a Certificate of Waiver or Authorization for an Aerobatic Practice Area or an Aerobatic Contest Box. A CoW for a long-term aerobatic practice area (LT APA) ("long-term" meaning more than 30 days) is valid for 36 calendar-months. This notice revises the expiration date of a CoW for a LT APA from 24 calendar-months to 36 calendar-months. This notice provides guidance and policy to aviation safety inspectors (ASI) who issue a CoW for a LT APA or who may oversee an APA conducted under a CoW for a LT APA.

2. Audience. The primary audience for this notice is Flight Standards District Office (FSDO) ASIs who issue a CoW for a LT APA or oversee an APA conducted under a CoW for a LT APA. The secondary audience includes Flight Standards (AFS) branches and divisions in the regions and in headquarters (HQ).

3. Where You Can Find This Notice. You can find this notice on the MyFAA employee Web site at https://employees.faa.gov/tools_resources/orders_notices. Inspectors can access this notice through the Flight Standards Information Management System (FSIMS) at http://fsims.avs.faa.gov. Operators can find this notice on the FAA's Web site at http://fsims.faa.gov. This notice is available to the public at http://www.faa.gov/regulations_policies/orders_notices.

4. Background. The current edition of FAA Order JO 7210.3, Facility Operation and Administration, delegates to AFS the authority to issue the CoW for an APA. Previously, the order limited the duration of the CoW to 24 calendar-months. When an Environmental Assessment (EA) is conducted for a LT APA and a Categorical Exclusion (CATEX) or a Finding of No Significant Impact (FONSI) is issued, the FSDO is authorized to issue a CoW for that LT APA.

a. CoW Duration Limit. FSDOs, the International Aerobatic Club (IAC), and the International Council of Air Shows (ICAS) have asked AFS to streamline the processes by changing the duration of the CoW for a LT APA to extend past the 24 calendar-month limit. This change reduces the FSDO and industry paperwork requirement for the issuance or reissuance of a LT APA CoW. AFS could not change Order 8900.1 policy (in Volume 3,

Chapter 5, Section 1) to 36 calendar-months or more for the issuance of a LT APA CoW without a change to Order JO 7210.3.

b. Order JO 7210.3 Change Request. In March 2013, the General Aviation and Commercial Division (AFS-800) initiated a request of the Air Traffic Organization (ATO) to add language in paragraph 18-1-6e of Order JO 7210.3 to extend the effective waiver time period for APAs. The paragraph stated, "Waivers or authorizations issued by Flight Standards and ATO may be made effective for 24 calendar months in accordance with Flight Standards and ATO policies." Following that sentence, AFS requested ATO add, "Flight Standards may issue waivers for aerobatic practice areas (APA) to remain in effect for up to 36 calendar months."

c. Order JO 7210.3 Revised Language. In December 2015, ATO revised language in paragraph 18-1-6e of Order JO 7210.3 to extend the effective waiver time period for APAs. The paragraph currently states, "Waivers or authorizations issued by Flight Standards and ATO may be made effective for 24 calendar months in accordance with Flight Standards and ATO policies. Flight Standards may issue waivers for aerobatic practice areas (APAs) to remain in effect for 36 calendar months." This change allows for the subsequent change to Order 8900.1, Volume 3, Chapter 5, Section 1, extending the issuance of a LT APA CoW to 36 calendar-months.

5. Current Policy. Current policy in Order 8900.1, Volume 3, Chapter 5, Section 1, establishes the requirement for the LT APA CoW to be issued for a 24 calendar-month period. Since AFS field offices perform an annual risk-based surveillance of the LT APA, the semiannual waiver renewal has become a time and resource paperwork exercise. When AFS reissues a LT APA CoW every 24 calendar-months, it is a Federal action. This Federal action drives the requirement for a new EA to occur, even though the existing EA was valid indefinitely.

a. Order 8900.1, Volume 3, Chapter 5, Section 1, Subparagraph 3-118C. Subparagraph 3-118C currently states the following:

> **C. Regulatory Authority.** The regulatory authority for the issuance of waivers of Title 14 of the Code of Federal Regulations (14 CFR) part 91 for aerobatic practice areas and aerobatic contest boxes is based on the authority vested in the Department of Transportation (DOT) by Title 49 of the United States Code (49 U.S.C.). The regulations contained in part 91 are actually the responsibility of AT control (ATC). However, certain portions of these regulations have been delegated to the Flight Standards Service for oversight and enforcement in accordance with FAA Order JO 7210.3, Facility Operation and Administration, Part 6, Chapter 18, Paragraph 18-1-3. Even though the mandate to designate and supervise operations within waivered airspace is within Flight Standards purview, all airspace waivers are fully coordinated with AT to ensure safety of flight in the National Airspace System (NAS) and may be issued up to, but may not exceed, 24 calendar-months. Requests for waivers and authorizations are processed by the appropriate local Flight Standards District Office (FSDO). The final approval of the waiver or authorization is the responsibility of the FSDO manager who has jurisdiction over the geographic area in which the terms of the waiver or authorization are to be exercised.

b. Subparagraph 3-118D2)b). Subparagraph 3-118D2)b) and its first bullet currently states:

b) Long term aerobatic practice areas:

- Are from 10 days to no more than 24 calendar-months in duration.

6. Policy Changes Addressing the Extension of LT APA CoW to 36 Calendar-Months. To address the request from FSDOs, the IAC, and the ICAS, and to ensure an Acceptable Level of Safety (ALoS), AFS is establishing new policy with performance-based criteria. By facilitating this request to allow the LT APA CoW to be issued for 36 calendar-months, it will reduce the paperwork burden and the cost of conducting an EA less frequently, while still ensuring the intended level of safety is met. A LT APA CoW that was valid when Order JO 7210.3 was issued (December 10, 2015) should be administratively reissued, extending the expiration date from 24 to 36 calendar-months in accordance with the new policy requirement in Order JO 7210.3 and this notice. This should be accomplished within 120 days of issuance of this notice and a copy (electronic) sent to 9-AWA-AVS-AFS-ENVIRONMENTAL@faa.gov for AFS-800. All new LT APA CoWs should be issued for a 36 calendar-month duration and a copy (electronic) sent to 9-AWA-AVS-AFS-ENVIRONMENTAL@faa.gov.

a. New Subparagraph 3-118C. The new text of subparagraph 3-118C will be:

C. Regulatory Authority. The regulatory authority for the issuance of waivers of Title 14 of the Code of Federal Regulations (14 CFR) part 91 for APAs and ACBs is based on the authority vested in the Department of Transportation (DOT) by Title 49 of the United States Code (49 U.S.C.). The regulations contained in part 91 are actually the responsibility of the Air Traffic Organization (ATO). However, certain portions of these regulations have been delegated to the Flight Standards Service for oversight and enforcement in accordance with FAA Order JO 7210.3, Facility Operation and Administration, part 6, chapter 18, paragraph 18-1-3. Even though the mandate to designate and supervise operations within waivered airspace is within Flight Standards' purview, all airspace CoWs are fully coordinated with ATO to ensure safety of flight in the National Airspace System (NAS) and may be issued up to, but may not exceed, 36 calendar-months. Requests for a CoW are processed by the appropriate local Flight Standards District Office (FSDO). The final approval of the CoW is the responsibility of the FSDO manager who has jurisdiction over the geographic area, in which the terms of the CoW are to be exercised.

b. New Subparagraph 3-118D2)b). The new text of subparagraph 3-118D2)b) and its first bullet will be:

b) Long-term aerobatic practice areas (LT APA):

- Are more than 30 days to no more than 36 calendar-months in duration.

7. Disposition. We will incorporate the information in this notice into Order 8900.1 and other applicable guidance before this notice expires. Direct questions concerning the information in this notice to Sue Gardner, General Aviation Operations Branch (AFS-830), at 847-294-7970 or email sue.gardner@faa.gov.



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