

CHAPTER 47. ISSUE A CERTIFICATE OF WAIVER FOR RESTRICTED CATEGORY CIVIL AIRCRAFT

SECTION 1. BACKGROUND

1. PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS) ACTIVITY CODE. 1230

2. OBJECTIVE. The objective of this task is to determine whether or not an applicant is eligible for issuance of a Certificate of Waiver in accordance with Title 14 of the Code of Federal Regulations (14 CFR) part 91, § 91.313(e) for the operation of a restricted category civil aircraft. Successful completion of this task results in the issuance of a Certificate of Waiver or the disapproval of the application for the waiver.

A. On October 25, 1994, the President signed the Independent Safety Board Act Amendments, which contained a major change in the definition of "public aircraft." Public aircraft are exempt from many types of Federal Aviation Administration (FAA) regulations.

B. Advisory Circular (AC) 00-1.1, Government Aircraft Operations, includes the FAA's interpretation of key statutory terms in reference to the new definition. The AC will assist operators of government owned aircraft in determining whether their former public aircraft operations remain public aircraft operations under the new definition. It is important for ASIs to obtain the AC and understand its contents.

3. GENERAL.

A. Definitions.

(1) *Restricted Category Civil Aircraft.* In many cases only minor modifications of a standard category aircraft are made to install special equipment which will require the aircraft to be placed in a restricted category. This minor modification may actually have little or no effect on the performance or structural integrity of the aircraft and, therefore, issuance of a waiver may be a relatively simple procedure with little need existing for strict limitations in the special provisions section of the waiver. On the other hand, a standard aircraft or surplus military aircraft may be required to undergo extensive modifications to install special equipment or to increase its operating weight. In this instance a waiver may be issued, but in all prob-

ability it would require more restrictive special provisions. Any special provision considered necessary in the interest of safety should be included when issuing a waiver of § 91.313(e).

(2) *Special Purpose Operations.* Generally, aircraft that have been certificated in the restricted category have been modified for special purpose operations. Title 14 CFR part 21, § 21.25 defines special purpose operations as:

(a) Agricultural (spraying, dusting, and seeding, and livestock and predatory animal control);

(b) Forest and wildlife conservation;

(c) Aerial surveying (photography, mapping, and oil and mineral exploration);

(d) Patrolling (pipelines, power lines, and canals);

(e) Weather control (cloud seeding);

(f) Aerial advertising (skywriting, banner towing, airborne signs and public address systems); and

(g) Any other operation specified by the Administrator

(3) *Surplus Military Aircraft.* Problems have been encountered by operators who purchase surplus military aircraft and attempt to have them certificated in the Standard Airworthiness Category. In many instances, although the aircraft may have type-certificated counterparts, these surplus aircraft are certificated in the restricted category because the cost involved in meeting requirements for standard airworthiness certificates is prohibitive. These aircraft may have been extensively modified or operated in combat conditions. In other cases, they may have been operated and maintained to the highest possible standards. This should be considered when processing an application for waiver of § 91.313(e) involving surplus military aircraft with regard to necessary special provisions. Any questions regarding airworthiness (such as performance, structural integrity, etc.) should

be referred to an airworthiness inspector or the Aircraft Certification Service.

B. Authority. Restricted category civil aircraft may not be operated over a densely populated area, in a congested airway, or near a busy airport where passenger transport operations are conducted except under the provisions of a Certificate of Waiver (§ 91.313(e)).

C. Aircraft Operating Limitations.

(1) Restricted category civil aircraft must be operated in accordance with a FAA Form 8130-7, Special Airworthiness Certificate and its associated operating limitations.

(2) For turbine-powered airplanes, piston-powered aircraft with over 800 horsepower (hp), rotorcraft, large airplanes (over 12,500 lbs), and any other aircraft as deemed necessary, a limitation concerning pilot qualifications may have been prescribed. An example of this limitation is “The pilot-in-command of this aircraft must, as applicable, hold an appropriate category/class rating, have an aircraft type rating, or possess a letter of authorization issued by an Flight Standards Inspector.”

(3) The FAA airworthiness inspector/aircraft engineer may also prescribe additional operating limitations as deemed necessary for the special purpose involved. The additional limitations will be enumerated on a separate sheet, dated, signed, and attached to FAA Form 8130-7, Special Airworthiness Certificate.

D. Special Provisions. Since each application needs to be evaluated on an individual basis, it would be impracticable to list all special provisions that might be necessary when issuing a waiver to 14 CFR § 91.313(e). However, the following is a partial list of subjects that may require special provisions:

- (1) Specific routes
- (2) What runways can be used
- (3) What airports may be used
- (4) The number of operations where applicable
- (5) Minimum weather criteria
- (6) Considerations for diminished aircraft performance

E. Waiver Application and Approval. Applications for operation of restricted category civil aircraft in

accordance with 14 CFR 91.313 are processed at the local Flight Standards District Office (FSDO).

F. Forms Used. FAA Form 7711-2, Application for a Certificate of Waiver or Authorization (figure 47-1), is a multi-purpose form used to apply for FAA Form 7711-1, Certificate of Waiver or Authorization (figure 47-2). All items on the form may not be applicable to the application.

G. Submission. The completion and submission of FAA Form 7711-2 is the sole responsibility of the applicant. FAA Form 7711-2 should be submitted at least 5 days before the proposed operation.

H. Approval or Denial. At least 3 days before the event the district office must approve or disapprove the application. Once approved, FAA Form 7711-2 becomes a part of FAA Form 7711-1. The district office manager, or a designated representative, shall sign the waiver upon approval.

I. Expiration Date. An FAA Form 7711-1 expires not later than 12 calendar months from the date of issuance or the termination of the proposed operation. A Certificate of Waiver must be re-applied for and then re-issued by the FSDO.

J. Vital Information Subsystem (VIS) Office File. The inspector should establish an operator VIS record of all operators issued waivers for a 12-calendar month period, i.e., industrial operator with a lighted advertising sign. However, a VIS record is not required for operators issued waivers for a one-time operation.

K. Assistance. Regional Coordinators have been selected to assist in answering any of your questions concerning this issue and may be contacted through your regional office. Until further notice, questions concerning enforcement and legal interpretations will be forwarded to Washington Headquarters. Regional Coordinators will forward such questions to the hotline. If unable to contact your Regional Coordinator you may call the hotline at (703) 661-0333 (extension 5054 or 5055). It is important to keep the Regional Coordinator advised in this case.

L. Type Certification Inquires. Questions concerning type certification, including Supplemental Type Certificates (STC), should be directed to the appropriate identified in AC 20-126, Aircraft Certification Service Field Office Listing (current edition).

4. STATUTORY PROVISIONS. Under the new statute, many former public aircraft operations may now be subject to the regulations applicable to civil aircraft

operations. For example, aircraft used to transport passengers will, in some circumstances, no longer be considered public aircraft. Unless they receive an exemption from the Administrator, the operators of such aircraft will need to meet civil aircraft requirements such as those pertaining to aircraft certification, aircraft maintenance, pilot certification, and pilot currency. The new law became effective April 23, 1995.

A. Aircraft owned and operated by the Armed Forces and intelligence agencies of the United States, however, will retain their public aircraft status unless operated for commercial purposes.

B. Except as provided in chapter 1, paragraph 2g through i, of the AC, government-owned aircraft operators transporting passengers or transporting property for commercial purposes will now be required to operate in accordance with the applicable 14 CFR.

C. Government-owned aircraft operators transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of a governmental function, such as fire fighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management would still be considered a public aircraft operation. Remember it is not sufficient to merely show that the passengers are being transported to perform one of the governmental functions; the use of the aircraft must be necessary for the performance of the mission.

D. *Exemptions.* Field office personnel have no authority to allow government operators to conduct operations which do not comply with the Regulations. A government agency may, in appropriate circumstances, seek either a regulatory or statutory exemption. An applicant for an exemption should be directed to follow the exemption process set forth in part 11 of 14 CFR. Agencies which apply for statutory exemptions are required to show that they have an acceptable aviation safety program to ensure safe operations. The aviation safety program should be submitted with the petition for exemption, following the procedures outlined in part 11. The FSDO having jurisdiction over the applicants' operation will be asked to review the safety program and give an opinion as to whether the program meets the requirements for the issuance of the exemption. The FSDO will be expected to provide written justification for its recommendations.

NOTE: The Independent Safety Board Act Amendments of 1994 (Amendments) authorize

exemptions from the United States Code--specifically, the Federal Aviation Act of 1958, as amended and recodified--rather than from the regulations. The Amendments authorize such exemptions only for operations whose status has changed as a result of the revised definition of public aircraft. This authorization does not apply to operations conducted for commercial purposes, in as much as they were considered civil aircraft operations under both the original and revised definitions.

5. AIRCRAFT USED FOR DUAL PURPOSES.

Government agencies may conduct both public and civil aircraft operations with the same aircraft. However, the operator will be required to maintain the aircraft in accordance with the appropriate regulations applicable to civil aircraft operations. Aircraft which hold airworthiness certificates should be handled as follows:

A. If the operation is a public aircraft operation and no modifications are made to the aircraft, the airworthiness certificate may be displayed in the aircraft as required by 14 CFR § 91.203(b).

B. When the public aircraft operation involves altering the aircraft temporarily, it is not necessary for the operator to surrender the airworthiness certificate or remove it from the aircraft. However, an inspection and log book entry will be required prior to the aircraft operating as a civil aircraft. For example, when the public aircraft operation requires the removal of a door during the "public aircraft" operation, the door installation and return to service must be performed by an authorized individual before the aircraft is operated as a civil aircraft.

C. Where the modification is substantial, and involves more than the simple removal and/or installation of equipment, the operator should obtain the required FAA approval before conducting civil aircraft operations. Where the modification is such that it permanently invalidates the airworthiness certificate of the aircraft, the FSDO should seek the voluntary surrender of the certificate. If the aircraft owner refuses to surrender the certificate, the FSDO should follow the procedures in FAA Order 2150.3, Compliance and Enforcement Program (current edition).

D. The FAA has allowed a certificate holder who also conducts public aircraft operations to retain the aircraft on its operations specifications when certain requirements have been met. Generally, those

requirements provide that permanent installations and modifications are approved by the FAA. Temporary alterations must be corrected and the appropriate inspection and maintenance entries must be made before the aircraft is returned to service.

6. GOVERNMENTAL FUNCTIONS. Not all activities conducted by government agencies are considered "governmental functions" within the meaning of the new definition. The accepted functions include "fire fighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management" or other comparable functions. In each instance, the use of an aircraft must be necessary to perform the function. In some cases, training flights may be considered acceptable where the training is being performed aboard the aircraft and the aircraft is necessary for the performance of the training. AC 00-1.1, Government Aircraft Operations provides examples of situations which may be encountered by the field inspector. If an inspector has any questions regarding other functions comparable to those listed above or the nature of an operation he/she should seek assistance from the regional coordinator or the public aircraft hotline.

7. SURVEILLANCE ACTIVITIES. Government-owned aircraft operators, holding any type of FAA certification, will be included in the normal surveillance activities such as, spot inspections of the aircraft and aircraft records. This includes any aircraft exclusively leased to the Federal government. Any aircraft or operation certificated by the FAA is subject to this surveillance regardless of whether they are operating as "public or civil." For example, if an operator's operation is considered "public" and they hold an airworthiness certificate, their maintenance records are eligible for review. If you encounter an operator who states they are operating under the "public" status and you have questions concerning that operation, contact your regional public aircraft coordinator for assistance.

NOTE: Government-owned aircraft operators who are conducting public aircraft operations must be included in the FSDO's annual planned surveillance activities to ensure that their status remains unchanged.

8. REVIEW FAA FORM 7711-2. Pertinent items are discussed below for purposes of clarity and uniformity. The application should be reviewed upon receipt for obvious discrepancies. The information submitted by the applicant on FAA Form 7711-2 **must not** be altered by the issuing office.

A. Items 1 and 2. If the applicant is a representative of an organization, the organization's name should appear in item 1. The name of the individual and his or her position or authority to represent the organization (such as the "responsible person") should appear in item 2. If the applicant is not representing others, the term N/A should be entered in item 1 and the applicant's name entered in item 2.

B. Item 4. In many instances the applicant does not know or is not sure which sections of 14 CFR are involved. A conference with the applicant before acceptance of the application may be necessary. (For example, after August 31, 1990, applicants must use the new codification of 14 CFR part 91, and there is likely to be some confusion on the part of both inspectors and applicants.)

C. Item 5. It is sufficient for the applicant to use the terms "agricultural," "forest and wildlife," "aerial surveying," "patrolling," "weather control," or "aerial advertising" to describe the type of operation. However, the applicant should include detailed information on the type of operation.

D. Item 6. A detailed description of any city, town, county, and/or state over which operations will be conducted. For power line/pipeline operations, the routes must be depicted in cartographic or photographic form with every community, settlement, stadium, or other common gathering place located either side of the route depicted. The depiction should also include the areas where power lines and phone lines or any other obstructions cross the route.

E. Item 7. The applicant should list beginning and ending dates, not to exceed 12 calendar months, for the operation in this item. In cases involving one-time operations where the applicant has not indicated an alternate date, the inspector should advise the applicant to request alternate dates in order to save time and unnecessary paperwork.

F. Item 8. At the time the application for a waiver is submitted, the applicant may not know the names of the pilots or the aircraft to be used in a particular banner tow operation. The application may be accepted with a notation in item 8 that a list will be provided at a later, specified date.

G. Item 15. The applicant, designated representative, or an authorized officer of the company must sign in this block. If the application is for a corporation, the full name of the corporation and its principal business office address must be indicated.

SECTION 2. PROCEDURES

1. PREREQUISITES AND COORDINATION REQUIREMENTS.

A. Prerequisites. This task requires knowledge of regulatory requirements in 14 CFR part 91 and FAA policies and qualification as an Aviation Safety Inspector Operations.

B. Coordination. This task requires coordination with the airworthiness unit within the district office, and may require coordination with the Aircraft Certification Service, appropriate Air Traffic Facilities, and the Regional Office.

2. REFERENCES, FORMS, AND JOB AIDS.

A. References.

- PTRS Procedures Manual (PPM)
- Order 8700.1, General Aviation Operations Inspector's Handbook

B. Forms.

- FAA Form 7711-1, Certificate of Waiver or Authorization (figure 47-2)
- FAA Form 7711-2, Application for a Certificate of Waiver or Authorization (figure 47-1)
- FAA Form 8000-36, PTRS Data Sheet

C. Job Aids.

- Sample letters and figures

3. PROCEDURES.

A. Initial Contact.

(1) Provide the applicant with a copy of FAA Form 7711-2 and Instructions for Completion of FAA Form 7711-2 (figure 47-3).

(2) Advise the applicant to complete items 1 through 8 and item 15 on FAA Form 7711-2.

(3) Inform the applicant that FAA Form 7711-2 must be submitted in duplicate (an original and one copy) to the FSDO at least 5 days before the proposed operation.

B. Open PTRS. Make appropriate PTRS entries.

C. Review FAA Form 7711-2. Using the information provided by the applicant and the background in

Section 1 of this chapter, review FAA Form 7711-2 for all pertinent information for the proposed operation of a restricted category civil aircraft.

(1) *Items 1 and 2, Name of Organization/Name of Responsible Person.* Ensure that the applicant has indicated the name of the organization or individual applying and the name of the person responsible for matters concerning the application.

(2) *Item 3, Permanent Mailing Address.* Ensure that the applicant indicates the permanent mailing address of the organization or individual named in item 1.

(3) *Item 4, 14 CFR Sections to be Waived.* Ensure that the applicant has listed the applicable 14 CFR sections that need to be waived.

(4) *Item 5, Description of Operations.* Determine that the applicant has indicated the type of operation to be conducted under the waiver.

(5) *Item 6, Area of Operations.* Ensure that the applicant has listed the specific locations and altitudes of the proposed operation. Ensure that the area of operation is within the jurisdiction of the district office.

(6) *Item 7, Time Period.* Check for a beginning and ending date for the operation.

(7) *Item 8, Aircraft and Pilots.* Check for aircraft make and model, pilot names, certificate numbers and ratings, and full home address. Item 8 may be accepted with a statement, "A list containing aircraft and pilot information will be furnished on [applicant enters a specific date]."

(8) *Item 15, Certification.* Ensure that the applicant has signed and dated the application.

(9) If discrepancies or deficiencies are found:

(a) List the reasons for disapproval in the Remarks section on the reverse side of FAA Form 7711-2.

(b) Return the application to the applicant with a letter of disapproval (figure 47-4). Include in the letter a suspense date for submission of a corrected application.

(c) Make appropriate PTRS entries.

(10) If there are no discrepancies or deficiencies, continue the task.

D. Review FAA Form 8130-7. Review the aircraft's Special Airworthiness Certificate, FAA Form 8130-7, and its associated operating limitations.

E. Prepare FAA Form 7711-1.

(1) Complete the appropriate section of FAA Form 7711-2

(2) Develop, if necessary, any special provisions that are not covered in the applicant's Special Airworthiness Certificate operating limitations.

(3) Submit FAA Form 7711-1 to the district office manager, or designated representative, for his or her signature. The designated representative may be no lower than the operations unit supervisor.

F. District Office File.

(1) Place a copy of the following documents in the district office file.

(a) FAA Form 7711-1 and any special provisions

(b) FAA Form 7711-2

(c) Any other documents of correspondence

(2) Send originals of the following documents to the operator:

(a) FAA Form 7711-1

(b) FAA Form 7711-2

G. Close PTRS. Make appropriate PTRS entries.

H. Vital Information Subsystem. Establish a 14 CFR part 91 operator VIS record, if appropriate.

4. TASK OUTCOMES. Completion of this task results in one or more of the following:

A. The issuance of a Certificate of Waiver.

B. Disapproval of an application.

C. Letter of disapproval.

D. Title 14 CFR part 91 Operator VIS record.

5. FUTURE ACTIVITIES.

A. Re-issue a Certificate of Waiver.

B. Cancellation of a Certificate of Waiver.

C. Surveillance of any operations approved by the Certificate of Waiver.

D. Possible enforcement investigation.

**FIGURE 47-1
FAA FORM 7711-2, APPLICATION FOR CERTIFICATE OF WAIVER OR AUTHORIZATION**

No certificate may be issued unless a completed application form has been received (14 C.F.R. 91.101, and 105).

 US Department of Transportation Federal Aviation Administration		<i>Form Approved: O.M.B. No. 2120-0027</i> APPLICANTS - DO NOT USE THESE SPACES			
		Region		Date	
		Action <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved - Explain under "Remarks"			
		Signature of authorized FAA representative			
INSTRUCTIONS					
Submit this application in triplicate (3) to any FAA Flight Standards district office.					
Applicants requesting a Certificate of Waiver or Authorization for an aviation event must complete all the applicable items on this form and attach a properly marked 7.5 series Topographic Quadrangle Map(s), published by the U.S. Geological Survey (scale 1:24,000), of the proposed operating area. The map(s) must include scale depictions of the flightlines, showlines, race courses, and the location of the air event control point, Police dispatch, ambulance, and fire fighting equipment. The applicant may also wish to submit photographs and scale diagrams as supplemental material to assist in the FAA's evaluation of a particular site. Application for a Certificate of Waiver or Authorization must be submitted 45 days prior to the requested date of the event.					
Applicants requesting a Certificate of Waiver or Authorization for activities other than an aviation event will complete items 1 through 8 only and the certification, item 15, on the reverse.					
1. Name of organization Duncan and Daughters Surveying			2. Name of responsible person Elizabeth Duncan		
3. Permanent mailing address	House number and street or route number 52 Aviation Rd	City Warrenton	State and ZIP code VA, 22186	Telephone No. (703) 555-4567	
4. FAR section and number to be waived 14 CFR section 91.313(e)					
5. Detailed description of proposed operation (Attach supplement if needed) (The applicant must describe in detail the exact operations, e.g., Aerial Surveying. The applicant may place this description on a separate sheet of paper and attach it to the application.)					
6. Area of operation (Location, altitudes, etc.) (The applicant must include a detailed description of city, town, etc., over which the aircraft will operate. The applicant may attach a map or chart.)					
7a. Beginning (Date and hour) (Self-explanatory)			b. Ending (Date and hour) (Self-explanatory)		
8. Aircraft make and model (a)	Pilot's Name (b)	Certificate number and rating (c)	Home address (Street, City, State) (d)		
B-17	Margaret Duncan	Commercial 1233456789	13 Elm Street Warrenton, VA		
(The applicant must	sign the application in	Item #15 on the reverse	side of FAA Form 7711-2)		

FAA Form 7711-2 (8-86) Supersedes Previous Edition AFS Electronic Forms System - JetForm Form Flow - 12/1998

FIGURE 47-3
INSTRUCTIONS FOR COMPLETING FAA FORM 7711-2

1. PREPARING FAA FORM 7711-2. Items from FAA Form 7111-2 are discussed below for purposes of clarity and uniformity of its use. Items 9 through 14 apply to airshow and air race waiver requests only.

- a. Items 1 and 2, Name of Organization/Name of Responsible Person. If you are a representative of an organization, then the organization's name should appear in Item 1. Your name and title or position, as the organization's representative, for application purposes should appear in Item 2. If you are not representing an organization, the term "N/A" should be entered in Item 1 and your name in Item 2.
- b. Item 3, Permanent Mailing Address. Self-explanatory.
- c. Item 4, 14 CFR section and number to be Waived. Title 14 CFR § 91.313(d) should be listed in this item. If the proposed operation is for powerline/pipeline operations, you must also list 14 CFR § 91.119(b) and/or (c). If you are unsure which 14 CFR sections will need to be waived, contact the FSDO for guidance.
- d. Item 5, Detailed Description of Proposed Operations. It is sufficient to use the terms "aerial advertising," "agricultural," "forest and wildlife conservation," "aerial surveying," "patrolling," or "weather control." Additional detailed information on the type of operation to be conducted should be included.
- e. Item 6, Area of Operation. A detailed description of any city, town, county, and/or state over which the special operations will be conducted and the minimum altitudes essential to accomplish the operation should be included in this item. The routes for powerline/pipeline operations must be depicted in cartographic or photographic form with every community, settlement, stadium, or other common gathering place located either side of the route depicted. The depiction should also include the areas where power lines and phone lines or any other obstructions cross the route.
- f. Item 7, Time Period. List the beginning dates and hours and ending dates and hours for the proposed operation. Maximum time period for operations is 12 calendar months (i.e., June 12, 1990 to June 11, 1991.) The application should be submitted to the FSDO at least 5 days before the beginning date of the operation. For a one-time operation, consideration should be given to alternate dates. A request for alternate dates may prevent a delay and/or unnecessary paperwork. These alternate dates should be included in this item.- '
- g. Item 8, Aircraft Make and Model. List the names of all pilots, their certificate numbers and ratings, and their full home address and all aircraft by make and model to be used in the operation. If the type of aircraft and/or the names of the pilots are not known at the time the application is submitted, the FAA will accept the application with the statement, "A list containing aircraft and/or pilot information will be furnished on [insert date.]"
- h. Item 9, Sponsorship. Not required.
- i. Item 10, Permanent Mailing Address of Sponsor. Not required.
- j. Item 11, Policing. Not required.
- k. Item 12, Emergency Facilities. Not required.
- l. Item 13, Air Traffic Control. Not required.
- m. Item 14, Schedule of Events. Not required.
- n. Item 15, Certification. As the applicant or an organization's representative, you must sign in this block and on each page of the application.

FIGURE 47-4
SAMPLE LETTER OF DISAPPOVAL

FAA Letterhead

[*date*]

[*name of applicant*]

[*address of applicant*]

[*city, state, and zip code*]

Dear [*name of applicant*]: This letter is to inform you that the application you submitted on [*date*] has been disapproved for the reasons listed in the Remarks section of FAA Form 7711-2, Application for a Certificate of Waiver or Authorization.

Please make the corrections noted, and return to this office within 15 days of receipt of this letter.

If you have any questions or comments, please feel free to contact this office at the following telephone number [*telephone number*].

Sincerely,

[*principal operations inspector's signature*]