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Docket Operations
M–30
U.S. Department of Transportation
1200 New Jersey Avenue, SE.
West Building Ground Floor, Room W12–140
Washington, DC 20590–0001

Re: Docket No.: FAA–2010–1127 Photo Requirements for Pilot Certificates

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization representing more than 400,000 members. AOPA's mission is to effectively serve the interests and needs of its members as aircraft owners and pilots and establish, maintain, and articulate positions of leadership to promote the economy, safety, utility, and popularity of flight in general aviation aircraft. Representing two thirds of all pilots in the United States, AOPA is the largest civil aviation organization in the world.

On November 19, 2010, the Federal Aviation Administration (FAA) issued a notice of proposed rulemaking (NPRM) titled "Photo Requirements for Pilot Certificates". The NPRM proposes a requirement that all pilots, including student pilots, obtain a new certificate with a photo in order to exercise the privileges of their certificate. AOPA submits the following comments regarding this NPRM.

AOPA Position: The FAA's Proposal Adds No Benefit to Safety or Security and has a Negative Economic Impact and Should Be Withdrawn

AOPA believes that this NPRM should be withdrawn on the basis that it adds no safety or security benefit while adding substantial cost to pilots and the federal government. AOPA maintains that before pilots and the FAA incur any additional costs associated with yet another change in airman certification, further coordination is needed between industry stakeholders, FAA, and other government agencies to ensure that any changes to the pilot certificate provide a true benefit while minimizing the impact.

In 2004 the Intelligence Reform and Terrorism Prevention Act (IRTPA) was signed into law. Section 4022 of that law requires the FAA to issue improved pilot certificates that (1) are resistant to tampering, alteration, or counterfeiting; (2) include a photograph of the individual to

whom the certificate is issued; and (3) are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier the FAA Administrator considers necessary. The FAA has already addressed a portion of this requirement by issuing plastic, tamper-resistant certificates. At the urging of AOPA, the FAA also promulgated a regulatory change to 14CFR 61.3 requiring pilots to have a government issued photo ID, readily accessible for inspection when exercising the privileges of the pilot certificate. This NPRM perpetuates a piece-meal approach to addressing the requirements of the IRTPA, adding significant expense to pilots and the federal government while offering no new benefit to safety or security.

Requirement for Pilots to Carry Government Issued Photo ID Exists

In 2002, AOPA petitioned for and the FAA enacted a rule that requires all flight crewmembers to carry a government issued photo ID[1], in addition to their pilot certificate, when exercising the privileges of their pilot certificate. As part of that same requirement, a pilot must present his/her airman certificate, medical certificate, and photo identification for inspection upon request from a representative of the FAA, National Transportation Safety Board (NTSB), Transportation Security Administration (TSA), or any federal, state, or local law enforcement officer. This existing requirement provides for positive identification of pilots while leveraging the security improvements that have been made to existing forms of identification such as a driver's license.

Requirement for Pilots to Obtain a Plastic Certificate

In 2004, the FAA began issuing to all pilots, except student pilots, a new counterfeit resistant plastic pilot certificate. These certificates are of high quality plastic card stock and have micro printing that contains certain words and phrases, a hologram, and an UV-sensitive layer to resist tampering, altering, and counterfeiting.

In 2008, the FAA issued rulemaking requiring that all pilots obtain these new plastic pilot certificates before March 31, 2010 in order to continue to exercise the privileges of their pilot certificates. The estimated cost to the U.S. Government to implement this switch to plastic certificates was between $2.96 million and $6.75 million. The total 5-year estimated cost to pilots was between $1.51 million and $3.45 million.

[1] 14 CFR 61.3(a): Requirement for certificates, ratings, and authorizations.

There is no Safety Benefit in this Proposal
FAA's core mission is to "provide the safest, most efficient aerospace system in the world". They work to promote aviation safety in the interest of the American public and the millions of people who rely on the aviation industry for business, pleasure, and commerce. Requiring a photo on a pilot certificate will not improve the accident rate or lead to a safer airspace system.

FAA Estimates of Costs May Be Grossly Underestimated
The actual total cost of implementation to airman will likely be more than the $445.8 million ($235.8 million, present value) 20-year estimated cost to airmen and $718.7 million ($380.1 million, present value) total cost estimated in the NPRM. The costs associated with this proposal significantly outweigh any benefit.

AOPA is also concerned about what the true cost to implement this NPRM would be for airmen. Even in the proposal, there is discussion raised about a near-future increase in the fee imposed by the FAA. Additionally, there is uncertainty regarding the fee that will be charged by designees to process the application. Add to all the fees, the expense in travel, time, cost to obtain a photo, etc. and this proposal equates to a substantial economic impact to airmen.

As the United States government considers cost cutting measures to address the federal deficit, the FAA should not be pursuing regulations that add no benefit to safety or security yet add to federal spending. The FAA should withdraw this proposed rulemaking.

Other Certificate Security Enhancements Have Been Implemented
Since the passage of the IRTPA, a system has been developed that integrates the capabilities of the TSA, FAA, Customs and Border Protection (CBP) and the stakeholder community to increase security of pilot credentialing.

- **Vetting of Pilots and Maintenance Personnel against Terrorist Watch Lists** - General aviation pilots are subjected to a variety of security screening programs appropriate for their level of aviation participation and their level of access to aviation resources. These screening programs help keep potential terrorists from gaining access to training or aircraft that could be subverted for criminal acts.

- **Flight Training Background Checks** - The TSA requires a security threat assessment for non-U.S. citizens seeking flight training at U.S. flight schools, regardless of the type and size of the aircraft involved for the issuance of an initial pilot certificate, an instrument rating or multi-engine rating. The Alien Flight Student Program is designed to prevent terrorists from receiving pilot training

from U.S. flight schools. As a prerequisite to flight training, non-U.S. citizens must provide the TSA with a complete set of fingerprints taken in the United States; biographical information, including full name, passport and visa information; and training specifics such as the type of aircraft the candidate seeks instruction to operate. Flight schools are subsequently required to submit a student's photograph to the TSA to ensure that the student reporting for flight training is in fact the same individual who successfully completed a TSA security threat assessment. U.S. citizens seeking flight training at any U.S. flight school must supply either a valid birth certificate and a government-issued photo ID, or a current U.S. passport before they can begin certain types of flight training

- **Additional Flight Training Background Checks for Aircraft Weighing Over 12,500 Pounds** – For non-U.S. citizens training in an aircraft or simulator to operate an aircraft weighing more than 12,500 pounds, all of the requirements of the Alien Flight Student Program apply as well as more frequent vetting of students against the terrorist watch lists compared to those training in aircraft weighing under 12,500 pounds.

- **Recurrent Security Awareness for Flight Instructors** - The interim final rule for initial security awareness requires a training program to include training that would "enable an employee to identify the proper uniforms and other identification (if required) for employees at that flight school or other person authorized to be on the grounds of that flight school." Many courses specifically discuss verifying pilot certificates and an additional government-issued ID.

- **Private Charter Security Program or the 12-5 Security Program** - Pilots of any Part 135 Air Carrier that operates large general aviation aircraft must undergo a criminal history records check which includes the need to collect fingerprints for vetting.

- **Security Identification Display Areas (SIDA)** - Most airports that offer commercial airline service are required to establish Security Identification Display Areas (SIDA). Any person entering the SIDA must display the appropriate identification badge. In order to obtain a SIDA badge, the person must undergo a full criminal history records check. Active ID display and challenge procedures are written into an airport's security plan to verify an individual's access to the area.

- **Transportation Security Regulation Part (TSR) 1542**
  On December 10, 2008, the TSA issued Security Directive (SD) 1542-04-08F (SD-08F) and G (SD-09G) to commercial service airports. The SD requires that any person who has access to the Airport Operations Area (AOA) undergo a Security Threat Assessments (STA) and be issued an airport ID. This includes all general aviation owners and operators that reside at the airport. Additionally, the SD requires all persons with regular and frequent access to the AOA to meet the same requirements as persons with access to commercial aircraft.

Biometrics are Not Fully Addressed in the NPRM

The IRTPA does not specifically mention the type of biometric identifier that is required for inclusion on the pilot certificate. This NPRM does not address what type of information will be stored electronically on the card, if any. It also doesn't address the concept of universal access control for those pilots requiring access to the airports regulated under TSR 1542[2]. The inclusion of biometrics as discussed in the following could add additional benefits however universal access is not necessary for all pilots. With over 4,000 landing facilities in the United States and only 500 of them regulated under Part 1542 by the TSA, not all certificated pilots need to have this identity-based access credential. At this time, the industry does not have the infrastructure in place to utilize enhanced biometric capabilities and we are concerned that future attempts to add expanded capabilities will add additional cost and hassle for pilots.

Biometrics are automated methods of recognizing a person based on a physiological or behavioral characteristic. Among the features that may be measured and captured for use in ID cards are face, fingerprints, hand geometry, handwriting, iris, retinal, vein, and voice. Biometric identification can be used in two ways: to store information (identity credential) or to provide access (identity-based access control).

- Example 1: Biometric information stored on radio frequency identification (RFID) passports. This allows the card to be scanned or waved at an electronic reader, so that personal information automatically populates in the computer system. This reduces the time it would take for an agent to manually enter the information into the system. The agent would then use the information provided to validate the person's identity.

- Example 2: Biometric information is provided to obtain an identification card that allows access onto an airport ramp. After proper vetting of the biometric information,

[2] Part 1542: Airport Security 49 CFR, Subchapter C - Civil Aviation Security

the card would serve as an identification and be coded to allow access to specified secured airport access areas.

AOPA and other industry stakeholders have begun a dialog with TSA to establish a universally recognized secure identification that facilitates access at airports. The enhanced airman certificate with a photo could serve as the baseline for this identification credential but not as proposed in this NPRM. This task would require coordination among many federal agencies including the FAA, TSA, and CBP. Implementation would require the cooperation of these agencies, the general aviation industry and the airport community. Pilots are currently required to obtain a badge for each TSA regulated airport they travel to with unescorted access, causing the pilot to comply with mis-matched guidance and requirements from each individual airport. A universally recognized ID that is capable of providing interoperable access could create a tremendous benefit to those pilots traveling to airports regulated under Transportation Security Regulation Part (TSR) 1542.

A universal access credential similar to the Transportation Worker Identification Credential (TWIC) for maritime workers could be a benefit for many pilots and could contain the biometric identification called for in the IRTPA. However, based on the problems experienced with implementation of the TWIC program, a similar credential for the aviation industry must not be rushed into existence. It calls for careful coordination between industry stakeholders as well as airports, FAA, TSA, CBP and other government entities.

AOPA Recommendations

Although AOPA believes that this NPRM as written should be withdrawn, we are submitting the following recommendations with regard to the implementation details contained within the proposed rule.

FAA Proposal: The FAA includes student pilot certificates in this proposal. Student pilots would have to obtain a student pilot certificate with a photo incorporated prior to solo flight. They will have to apply for the certificate through a Flight Standards District Office (FSDO) or Designated Pilot Examiner (DPE) and wait up to 8 weeks for processing through the FAA certification branch.

AOPA Recommendation: Do not require photo on student pilot certificate and leave student certificate issuance as is so as to not deter new applicants from flight training.

This Proposal is a Detriment to Safety and Hindrance to Optimal Flight Training
A 6 – 8 week processing time for the student pilot certificate is a detriment to safety because skills learned in flight training deteriorates as time between training events is extended. The principle of recency states that things most recently learned are best remembered. Conversely, the further a learner is removed in time from a new fact or understanding, the more difficult it is to remember. Instructors recognize this principle when they carefully plan a training schedule. Ideally lessons should be spread no further than a couple of days apart for optimal learning and retention of skills.

Student pilots solo with an approximate average of 15 flight hours. If a student is enrolled in an intensive training course where they fly an average of 3 - 4 hours a day, they could potentially solo within a week or two of beginning flight training. Many professionals interested in becoming a pilot block out vacation time or leaves of absence from their jobs to achieve this goal. Many flight schools, flight training academies, and universities offer accelerated training programs to accommodate these student pilots. One great advantage of training through an accelerated training program is better retention of information and skills between lessons, resulting in shorter overall training times. Under Part 61 of the Federal Aviation Regulations, the minimum hours to complete flight training are 20 hours for a sport pilot certificate, 30 hours for a recreational certificate, and 40 hours for a private pilot certificate. All of these certificates can be completed within 8 weeks. Requiring student pilots to wait 6 – 8 weeks for their certificate to be able to solo places an unreasonable burden on students, flight instructors and flight schools and is a detriment to safe training practices.

This NPRM Needlessly Establishes Additional Obstacles to Student Starts
AOPA is concerned that by adding additional barriers to becoming a pilot, more individuals will be discouraged from pursuing pilot training which in turn affects the economic standing of the aviation community as a whole. Additional cost and burden placed on a potential student pilot is felt by the entire aviation community.

General Aviation (GA) is the foundation of America's aviation system. GA represents over one million jobs, billions of dollars of economic activity, and growth for thousands of cities and businesses across the globe. Flight instructors, flight schools, aircraft manufacturers, airports, even airlines are all economically impacted by a decrease in the pilot population. Growing and supporting GA improves the position of large sectors of the United States economy from small businesses to the national transportation system.

According to FAA data, there were 827,000 active certificated pilots in 1980 but only 624,000 in 2009. That's a 25% decline in 29 years. The number of incoming student pilots are even more alarming. In the same period, the number of incoming students dropped by two-thirds, from 199,833 to 72,280. Furthermore, 70 to 80 percent of those students—roughly 49,000 to 56,000—will drop out before ever earning their pilot certificates. General Aviation is the training ground for most professional pilots. As a result, economists and U.S. air carriers are greatly concerned with the recent decreases in student pilot statistics and have forecasted a U.S. pilot shortage in the near future.

AOPA is engaged in several efforts to increase the pilot population and retain student pilots. A proposal that adds bureaucratic steps in the process to becoming a pilot, without offering any benefit, will do nothing but discourage others from pursuing a pilot certificate.

Furthermore, AOPA questions the rationale of requiring student pilots to obtain a photo certificate especially considering that such a large percentage do not become pilots. The FAA cost and processing burden for students that do not complete training is entirely unjustified.

The proposal to require a photo certificate for student pilots should be withdrawn.

FAA Proposal: As proposed, pilots must submit paper photos to include with the initial application of this certificate.

AOPA Recommendation: The FAA should not implement this rulemaking until such a time that a digital photo may be accepted by the FAA.

As stated in the NPRM, "At this time, the FAA is prepared to accept only a hard copy of a photo, similar to the Department of State's passport model".

Until such time that the FAA can accept a digital photo, pilots must submit a paper copy of a photograph along with a paper application through a DPE or FSDO. This paper photo will then be scanned by the FAA certification branch and stored in electronic and paper format. This adds substantial cost and time to the pilot as well as the FAA. If the FAA were to suspend rulemaking until such a time that the airman certification branch could accept a digital photo, there would be fewer burdens placed on the pilot, FAA designee and FAA in processing time and expense.

FAA Proposal: As proposed, the application for the photo pilot certificate may only be made through a FSDO or other FAA designee (such as a Knowledge Testing Center or DPE)

AOPA Recommendation: The FAA should suspend rulemaking until such a time that application may be made electronically through Integrated Airman Certificate and/or Rating Application (IACRA) by any FAA designee or other person who chooses and becomes authorized with access to the system.

FAA's IACRA subsystem is an Internet-based database program providing a fully electronic method of applying for an airman certificate or rating. IACRA is accessible to a wide variety of FAA designees including Recommending Instructors (RI), Designated Examiners (DE), Flight School Administrators, Chief Flight Instructors / Assistant Chief Flight Instructors, Airman Certification Representative (ACR), Training Center Evaluators (TCE), Flight Instructor Renewal Examiner (FIRE). The FAA should provide a program that allows any of these designees ***who choose to become authorized*** to verify the identification of pilots and submit applications for the new photo pilot certificate. Allowing all individuals with access to IACRA process applications would reduce the administrative burden placed on FSDOs and DPEs in the NPRM and ease the application burden to pilots.

Expanded Access will Help Lower Costs

Allowing more individuals who choose to become authorized and have access to IACRA to verify identification and submit application for pilots would also potentially reduce the designee fee that will be associated with submittal of an application for a photo certificate without compromising security. Additional options will also reduce the travel required by applicants thus lowering the financial impact to airman.

FAA Proposal: An implementation schedule has been proposed that incorporates a "trigger-based" and "non-trigger-based" approach. For pilots interacting with the FAA due to a "triggering event" during the implementation period of this proposed rule, they would be required to apply for a pilot certificate with photo as a result of that interaction. Pilots that have no interaction with the FAA during the implementation period would be subject to a phased-in approach. This phased in approach would require a pilot with an airline transport pilot (ATP) certificate to obtain a photo certificate within 3 years after the rule becomes effective. A person with a commercial pilot certificate would have 4 years. A pilot with a private, recreational or sport pilot certificate would have 5 years after the effective date to obtain the photo certificate.

AOPA Recommendation: Eliminate the instructor certificate renewal as a trigger-event

Flight instructors do not always have direct contact with the FAA when renewing a flight instructor certificate and therefore should not be **required** to obtain a photo pilot certificate as a result of an instructor renewal. One example of this is the instructor that renews their certificate through an online Flight Instructor Refresher Course (FIRC). Renewal of an instructor certificate does not necessarily equate to "interaction with the FAA" and therefore should not be considered a "triggering event". Although the instructor renewal should not be a required trigger to a photo certificate, the option should remain for those instructors that renew through direct contact with the FAA and choose to apply for a photo certificate concurrently with their instructor renewal.

FAA Proposal: In the NPRM, the FAA states that they "include student pilot certificates in this proposal to meet the IRTPA requirements that apply to all pilot certificates". It appears in the NPRM, however that instructor certificates will not be required to have a photo incorporated in the certificate. Renewal of the instructor certificate does however act as a "trigger event" to require application for a photo on the underlying certificate.

AOPA Recommendation: The FAA needs to clarify that the instructor certificate will not contain a photo.

Since this NPRM was published in the Federal Register, AOPA has been receiving input from the GA community with regard to the potential financial impact of this NPRM on certificated flight instructors. Although the FAA has in the past offered clarification that the instructor certificate is not considered a "pilot certificate" in regulatory language, this is not clarified in the language in this NPRM. As a matter of fact, it is somewhat muddied in the language of the NPRM. In one instance the FAA discusses the specific exemption of the flight instructor certificate by stating in the recommended language of 61.19(a)(1), "except for a student pilot certificate or flight instructor certificate issued with an expiration date…" The NPRM also states that they "include student pilot certificates in this proposal to meet the IRTPA requirements that apply to all pilot certificates". In another instance, under the proposed language for 61.19(c)(2), the FAA offers language to include the student pilot certificate but does not specifically address the instructor certificate. "(2) A pilot certificate, including a student pilot certificate, issued under this part after [effective date of final rule] contains a photo expiration date that is 96 months from the month in which a photo is submitted for inclusion on the certificate."

Change the proposed 61.19(c)(2) from:
"(2) A pilot certificate, including a student pilot certificate, issued under this part after [effective date of final rule] contains a photo expiration date that is 96 months from the month in which a photo is submitted for inclusion on the certificate."

To: "(2) A pilot certificate, except for a flight instructor certificate, issued under this part after [effective date of final rule] contains a photo expiration date that is 96 months from the month in which a photo is submitted for inclusion on the certificate."

FAA Proposal: The actual pilot certificate would not expire, however under the proposal, the photo would expire after 8 years. A pilot may not exercise the privilege of the certificate after the photo expiration date.

AOPA Recommendation: The photo should be valid for a 10 year period, consistent with the U.S. Passport photo requirements.

The photo guidelines regarding format, size, etc. are consistent with Department of State guidelines for passport photos. In order to maintain consistency with current passport guidelines, the photo on the pilot certificate should have a 10-year expiration date.

Conclusion

AOPA believes that this NPRM should be withdrawn on the basis that it adds no safety or security benefit while adding substantial cost to pilots and the federal government. AOPA maintains that before pilots, and the FAA incur any additional costs associated with yet another change in airman certification, further coordination is needed between industry stakeholders, FAA, and other government agencies to ensure that any changes to the pilot certificate provide a true benefit while minimizing the impact of any changes.

Sincerely,

Robert Hackman
Vice President, Regulatory Affairs
AOPA