AIRCRAFT OWNERS AND PILOTS ASSOCIATION
421 Aviation Way • Frederick, MD 21701-4798
Telephone (301) 695-2000 • FAX (301) 695-2375
www.aopa.org

June 8, 2012

The Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

The Honorable Jim Jordan
Chairman
Subcommittee on Regulatory Affairs
Stimulus Oversight and Government Spending
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairmen Issa and Jordan:

Thank you for the opportunity to identify existing and proposed regulations that have negatively impacted job growth in general aviation.

As you know, general aviation contributes high-skilled jobs in aircraft manufacturing, avionics and technology development, and flight training. It is also utilized for agriculture, law enforcement, and business travel. An estimated 65 percent of general aviation flights are conducted for business and public services, many of which serve smaller communities that do not have commercial aviation.

General aviation contributes more than $150 billion to U.S. direct and indirect economic output and employs nearly 1.3 million people whose collective annual earnings exceed $53 billion. There are 5,200 public use airports and more than 13,000 privately owned landing facilities in the U.S. with more than 223,000 active general aviation aircraft in the United States.

While we are a heavily regulated industry and can point to many regulations that impact job retainment and growth in our industry, attached are six regulations we believe are worth your consideration at this time. Below is a brief description of each:

- New Pilot Certification Requirements for Air Carrier Operations – Has the potential negative impact on: the number of new student pilots; flight training industry including flight instructors; and potential to reduce the overall number of pilots in aviation.

- Advance Information on Private Aircraft Arriving and Departing the U.S. – Has the potential negative impact on international air transportation and adversely affecting the U.S. economy.

According to an AOPA survey, 68 percent of our members indicate this rule would cause them to fly internationally less often.

- Re-registration and Renewal of Aircraft Registration – In a survey, AOPA members made it clear they object to increased burdens put on aircraft owners to improve the accuracy of the Aircraft Registry that the FAA allowed to degrade over time. They are very concerned with the cost of operation as they face unprecedented cost for fuel and other expenses related to owning and operating aircraft. AOPA offered alternative ways to improve the accuracy of the Registry.

- Petition for Exemption for a Third Class Medical Certificate - The petition meets President Obama's call for eliminating unnecessary regulatory requirements and reducing federal spending. The pilots who exercise the privileges provided by this petition would benefit from improved regulation, and the public may benefit from appropriate cuts in federal spending enforcing regulations that do not add materially to the safety of the aviation system. Approving of this exemption could reduce government spending by an estimated $11,530,910 over 10 years.

- TSA issued Security Directive SD 08F – Some airport operators may, in an attempt to avoid the administrative burden, choose to limit GA access to their airports, which could put the airport operator in violation of federal grant assurances that require airports receiving federal funds to be open to the public.

- Pilot in Command Proficiency Check and other Changes to the Pilot and Pilot Flight School Certificate Rules – Among other things, a large number of flight instructors and former flight instructors may perceive these regulatory requirements as being a significant disincentive to renewing an expired flight instructor certificate. This has substantially reduced the number of otherwise qualified and experienced part time flight instructors available to teach and promote GA.

Again, thank you for the opportunity to present these issues to you for future consideration. We are happy to provide detailed briefings or additional information as needed.

Sincerely,

Lorraine Howerton

Lorraine Howerton
Vice President
Legislative Affairs

Enc.

cc: The Honorable Elijah Cummings, Ranking Minority Member

The Honorable Dennis Kucinich, Ranking Minority Member
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending

421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

April 30, 2012

Department of Transportation
Federal Aviation Administration
14 CFR Parts 61 and 121
Docket No. FAA-2010-0100; Notice No. 12-01
RIN 2120-AJ67

RE: Docket No. FAA-2010-0100 New Pilot Certification Requirements for Air Carrier Operations

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

On February 29, 2012, the Federal Aviation Administration (FAA) issued a notice of proposed rulemaking (NPRM) titled "Pilot Certification and Qualification Requirements for Air Carrier Operations". This proposed rule change would create new certification requirements for pilots in air carrier operations requiring that all second in commands (first officers) in part 121 operations hold an airline transport pilot (ATP) certificate and a type rating for the aircraft to be flown.

Currently, the minimum regulatory requirements for being hired as a first officer in part 121 air carriers is a commercial certificate (which requires a minimum of 250 hours of flight time) however most pilots hired at air carriers have substantially more than the minimum flight experience. After passage of Public Law 111-216 last summer congress has mandated that the minimum hiring requirements at a part 121 air carrier be raised to an Airline Transport Pilot (ATP) certificate which, until passage of this law, was only required prior to serving as a pilot in command (captain) in part 121 operations. The law gave allowance for the FAA Administrator to "give credit" towards the 1,500 flight hour requirement of the ATP certificate for applicants who have completed applicable academic courses that would be most relevant for part 121 air carrier operations.

The FAA proposes in this NPRM to allow pilots with an aviation degree or military pilot experience to obtain an ATP certificate with restricted privileges with fewer than 1,500 hours total time as a pilot. The proposal also would require at least 1,000 flight hours in air carrier operations in order to serve as a pilot in command in part 121 air carrier operations. Finally, the FAA is proposing to modify an ATP certificate with an airplane category multiengine class

rating or type rating to require 50 hours of multiengine flight experience and completion of a new FAA-approved ATP Certification Training Program for a Multiengine Class Rating or Type Rating that would include academic training and training in a flight simulation training device.

AOPA is submitting comments on "Pilot Certification and Qualification Requirements for Air Carrier Operations" due to its potential negative impact on the number of new student pilot starts, the general aviation flight training industry, flight instructors, individuals who wish to hold or do hold an ATP certificate for uses other than air carrier operations, and the potential to reduce the overall number of pilots in aviation, thus reducing the number of pilots available to fulfill the diverse operational needs of General Aviation.

Issue Overview

Through this NPRM, the FAA is attempting to fulfill requirements from the Congressional mandate (Public Law 111-216) resulting from issues highlighted in the Colgan Air (dba Continental Airlines Express) DHC-8 accident that occurred on February 12, 2009, outside of Buffalo, New York. The accident focused attention on whether a commercially-rated copilot in part 121 operations receives adequate training to safely conduct commercial airline operations.

AOPA Concerns

AOPA has several concerns with the proposed rule changes as currently written, including:

- The proposed rule changes exceed the requirements of PL 111-216.
- The proposed rule changes do not consider individuals who use the ATP certificate for purposes other than air carrier operations.
- The FAA has not considered flight simulation training device capacity challenges.
- The FAA's proposed credit system for academic courses is insufficient and inequitable.
- Advanced Jet Training must not be a prerequisite to ATP certification. Requiring this training before ATP certification encourages unsafe training practices.
- The FAA proposes unrealistic qualifications for flight simulation training device instructors.
- The FAA sets arbitrary age requirements for pilots unable to complete a four-year degree in aviation.
- Pilots serving as second-in-command for part 135 air carriers should not be required to hold a type rating.
- The FAA's proposed rule changes exacerbate the pending pilot shortage.
- The FAA's economic analysis is incomplete.

Proposed Rule Changes Exceed the Requirements of PL 111-216

The requirements outlined in this NPRM exceed the criteria legislated by Public Law 111-216. PL 111-216 required the FAA to conduct rulemaking to amend CFR 14 part 61 requirements for the issuance of an ATP certificate. The legislation established minimum requirements for the ATP certificate including "sufficient" flight hours ("sufficient" to be determined by the

Administrator) and flight training, academic training, or operational experience that will prepare a pilot to function in a multi-pilot environment, function effectively in adverse weather conditions and icing, function effectively during high altitude operations, adhere to the highest professional standards, and function effectively in the air carrier operational environment.

However, the legislation is not prescriptive as to how the flight training, academic training, or operational experience is obtained. The FAA's proposal exceeds the likely intent of PL 111-216, providing little additional safety benefit while significantly increasing the economic impact of the proposed rule changes. For example, PL 111-216 has no flight training simulation device hourly requirement for ATP certification. Although this seems like a minor issue, it creates several challenges for the aviation community, as discussed below. PL 111-216 also does not legislate changes to flight instructor requirements, nor does it specifically require Advanced Jet Training for all ATP applicants. The NPRM includes all of these requirements and more.

Additionally, it seems little consideration was given to the potential impact to pilots seeking the ATP certificate for uses other than at air carriers.

AOPA also believes that a more equitable credit system could be developed, allowing training outside of the collegiate environment to count towards flight hour requirements, that would address the recommendations of the First Officer Qualification Aviation Rulemaking Committee (FOQ ARC) while meeting the requirements of the Public Law 111-216.

Uses of ATP Certificate Other than Air Carrier Operations

This proposed rule seems to indicate the FAA believes all ATP candidates intend to fly in part 121 air carrier multiengine airplane operations. This is simply not the case. part 61.157 allows the ATP with the following ratings:

(i) An airplane category and single engine class rating.

(ii) An airplane category and multiengine class rating.

(iii) A rotorcraft category and helicopter class rating.

(iv) A powered-lift category rating.

(v) An aircraft type rating.

61.157 also includes provisions for aircraft not capable of instrument maneuvers and procedures; multiengine airplanes with a single-pilot station; and single engine airplanes with a single-pilot station

There are 142,198 ATP certificates held in the U.S. There are only an estimated 60,000 part 121 airline pilots, so even assuming all part 121 airline pilots have ATP certificates (and they don't) then over 82,000 ATP certificated pilots use their certificates for other purposes. Many requirements proposed by this NPRM are forced upon **all** ATP certificate candidates, not just those seeking to conduct part 121 air carrier operations. This creates a cumbersome burden on those ATP candidates with goals other than part 121 operations and unnecessarily increases the overall cost of implementing the FAA's proposals. The FAA should consider revising the proposed changes to impose new requirements only on pilots seeking employment or employed by part 121 air carriers.

Unconsidered Capacity Challenges

Proposed 61.154(b) requires an ATP multiengine class rating or aircraft type rating candidate to have at least 16 hours of training in flight simulation training devices, including 8 hours of training in a Level C or higher full flight simulator and 8 hours of training a Level 4 or higher flight training device or full flight simulator (collectively "flight simulation training devices" or "FSTDs"). The requirements to complete training in flight simulation training devices goes beyond the legislation in PL 111-216. Further, the proposed mandate is infeasible.

AOPA is concerned about the lack of availability of FSTDs. Although many part 121 air carriers lease or own simulators for the purposes of training their employees, part 135 certificate holders and pilots pursuing an ATP for reasons other than air carrier operations typically only have access to Level C or higher simulators through a part 142 training center. Part 142 training center simulators are frequently scheduled many months in advance and run 24 hours a day, seven days a week in order to meet demanding training schedules. In fact, many part 135 certificate holders report reserving simulator training time a year or more in advance. Even most part 121 air carriers' in-house training centers have very complex schedules. The FAA seemingly did not consider the availability of FSTDs when drafting this proposal. Lack of availability of FSTD time could make this a regulation for which compliance is impossible.

The agency also did not consider the inevitable price increase of FSTD time based on the increased demand this regulation will undoubtedly create. The FAA, through this proposed requirement, is forcing part 135 air carriers – the vast majority of which are small business entities – and individuals seeking an ATP certification outside of the air carrier environment to contract with part 142 training centers, a relatively small number of business entities, in order to achieve ATP certification. Current ATP training and experience requirements allow a pilot to use their own aircraft or seek aircraft rental and training from any number of fixed base operators and flight schools. It is highly unusual for the federal government to require an individual or small business to contract with such a small population of other businesses in order to comply with regulations. This is analogous to the Internal Revenue Service requiring all tax returns be prepared by a certified public accountant – from a particular city. CPAs in that city would undoubtedly increase their fees as demand skyrocketed. The costs of forcing part 135 air carriers and individual ATP candidates to train in FSTDs is almost impossible to calculate since prices at

training centers with appropriate resources are inevitably going to increase, but the FAA's estimates are certainly much lower than realistic.

It might seem part 142 training centers and other training providers could just purchase new training devices and begin training more pilots. However, advanced flight training devices such as Level C or higher full flight simulators are very costly to purchase and maintain. Manufacturing a new simulator is not like building a new computer; a new flight simulator has a long lead time and is an incredibly expensive product. It is unlikely a significant number of new simulators could be online and functioning prior to the July 31, 2013, implementation date of the new ATP Certification training program. If in fact new simulators could be manufactured in time to meet increasing demand necessarily caused by this proposed rule, the FAA has not considered these costs in its economic evaluation. Flight simulation training devices are like actual aircraft in that prices range significantly by aircraft type, equipment, and other features, but the purchase price of Level C or higher full flight simulators range from hundreds of thousands to millions of dollars. This does not include costs associated with installation and the FAA approval process. Clearly, this is an unintended cost the FAA must consider before requiring all ATP candidates to complete 16 hours in flight training simulation devices.

Finally, Level C or above full flight simulators are not available for some multiengine airplanes. There are many examples of airplanes caught in this conundrum but consider the Cessna 310, for one. The Cessna 310 is a multiengine airplane for which no Level C or above full flight simulator is available. How does the FAA suggest a pilot seeking an ATP to fly a Cessna 310 for part 91 or 135 operations complete the proposed simulator training hours? The individual might or might not have intentions of flying part 121 operations in the future, but is unnecessarily burdened by an impossible mandate. Training in a simulator of another aircraft type in order to comply with this proposed regulation is not only ridiculous and costly, but could potentially be unsafe, as the pilot would learn systems and operations in an aircraft other than that the pilot intends to fly. This is known as "negative transfer", whereby learning the systems of one aircraft hinders the learning of another aircraft.

The "law of primacy" could also have a negative impact on a pilot's training if the FAA requires simulator training for ATP multiengine class rating or aircraft type rating. The law of primacy essentially states that a concept learned first creates a strong impression that is almost unshakeable. Even if the pilot intends to fly for a part 121 air carrier, unless that pilot is already employed by an air carrier, the pilot is unlikely to receive training while pursuing ATP certification in the aircraft type the pilot will fly for an air carrier. Assuming the pilot does receive training in that aircraft type for ATP certification, the pilot will almost certainly not be trained in the specific operations and procedures for the appropriate air carrier. The FAA is unintentionally encouraging negative learning principles through the requirement of FSTD training for the ATP multiengine class rating or aircraft type rating.

Proposed Credit System is Inequitable and Insufficient

The FOQ ARC, in which AOPA actively participated, recommended the FAA provide credits towards hourly flight time for various types of academic and aeronautical experience. The FOQ ARC final report stated,

> "While much public discussion has focused on raw flight hour numbers as the basis for a new regulatory qualification standard for the part 121 first officer position, aviation training programs have long proven that the knowledge and skills necessary for success as a part 121 pilot are best imparted through a structured combination of academic and practical training programs and flight experience.
>
> The legislation wisely allows for a thoughtfully constructed credit system by which the various learning paths to the necessary knowledge and flight experience can be credited toward the ATP. Such a system is presented below and provides the basis for earning an ATP SIC. Section 217 of H.R. 5900 provides the authority necessary for the FAA to authorize the aeronautical experience credit system recommended by the FOQ ARC."[1]

The NPRM also references the FOQ ARC's recommendations in regards to giving flight hour credit for academic learning.

> "The FOQ ARC developed an academic credit system that assessed the quality of each potential component of typical pilots' education and experience. The ARC's system gives credit for both the pilot's total flight-hour experience and specific academic training. The ARC reasoned that certain types of experience and training were more effective in preparing a pilot to transition to an air carrier environment.
>
> The FAA believes that, in certain circumstances, the combination of focused academic training and structured flight training can substitute for actual flight experience."[2]

PL 111-216 does not specifically require a full four-year aviation-related degree be obtained in order to credit academic training courses towards the flight hours required for the ATP certificate:

> "The Administrator may allow specific academic training courses, beyond those required under subsection (b)(2), to be credited toward the total flight hours required under subsection (c). The Administrator may allow such credit based on a determination by the Administrator that allowing a pilot to take specific academic training courses will

[1] "The First Officer Qualifications Aviation Rulemaking Committee Final Report," dated September 28, 2011.

[2] Federal Register Vol. 77, No. 40 page 12379, Pilot Certification and Qualification Requirements for Air Carrier Operations.

> enhance safety more than requiring the pilot to fully comply with the flight hours requirement."[3]

AOPA believes academic training courses should be credited towards flight hours required for the ATP certificate, but filed a dissenting opinion with the FOQ ARC as to the definition and application of academic training courses. AOPA recommends a more equitable split between credits earned from part 61 schools, part 141 schools, and other training paths. AOPA disagreed with the FOQ ARC on the amount of credit recommended for the "structured" training paths (i.e. university / collegiate flight training programs or military training programs) relative to the amount of credit given, or not given at all, to the general aviation training paths of part 141 schools or part 61 individual flight instructors. AOPA recommended more credit be available for training conducted under parts 141 or 61. AOPA believes the FAA has too narrowly interpreted the term "academic training courses" and feels Congress would have been more specific had it intended this statement to be limited to collegiate or university programs.

The effectiveness of a flight training course depends in great part to the competencies of the individual flight instructor, whether that flight instructor is training under a university program, a flight academy, a part 141 flight school or through individual flight instruction. Many flight instructors giving training under part 61 have part 121 or 135 air carrier experience and so may be more qualified to train pilots wishing to pursue a professional pilot career than any other flight instructors. We believe this point is overlooked in offering credits only to pilots completing a four-year degree or military training program.

Also, important to keep in mind is that, regardless of the training path taken, all pilots are required to pass the exact same FAA administered written knowledge exams and must meet the same Practical Test Standards for certificates earned. The core competencies that must be met are exactly the same.

Although there is definite benefit of additional academic courses taken in aviation, AOPA believes that a 500 hour advantage given to pilots who received training through a university four-year degree program puts the pilots who are not able to pursue a four-year degree program, the individual flight instructor and part 141 schools at a great financial disadvantage. With the credits currently offered through this recommendation, potential students are faced with the choice of enrolling at a university or face a 500 hour disadvantage. That 500 hour disadvantage (at an average of $175 / hour of aircraft rental) equates to over $87,500.

AOPA also believes significant safety benefit can be realized through the completion of individual academic training courses and a full four-year degree program is not necessary to enhance safety. The FAA's proposal only provides credit for completion of a four-year degree program. This forces a pilot to commit to a substantial financial burden in order to receive credit towards ATP certification flight hours. Instead, the FAA should allow pilots to attend individual

[3] PL 111-216 Section 217 (d).

courses and receive flight hours credit commensurate with the coursework. AOPA is not advocating the FAA provide credit for courses unrelated to aviation like accounting or creative writing. Rather AOPA believes courses related to crew resource management, human factors, meteorology, advanced jet training, and similar topics related to the air carrier environment should be credited towards flight hours. This would provide students outside of the often prohibitively expensive four-year degree programs an avenue to receive credit towards flight hours. And for students enrolled in an aviation four-year degree program, it will encourage electives to be chosen that would have the most benefit in their future air carrier careers, instead of courses that simply offer credits towards graduation without any safety benefit.

The FAA should consider allowing credit towards required flight hours for pilots who complete part 61 and 141 training. Part 141 flight schools utilize very structured training programs, approved by the FAA and subject to considerable FAA oversight. Further, many of the university and collegiate programs the FAA proposes to give credit for actually use a part 141 flight school to complete the flight training portions of their academic programs. If the FAA finds that training sufficient to provide credit towards hours when a degree is earned, why is that same training from the same training providers insufficient to count towards flight hours when a full four-year degree is not pursued? Many part 61 schools also follow structured syllabi and employ highly qualified instructors. Why is no credit given for training at these facilities? Once again, regardless of the training path taken, airman certificates are issued based on competency and proficiency of the pilot.

Advanced Jet Training as Prerequisite to ATP Certification

AOPA is concerned the FAA either misunderstood or misconstrued the FOQ ARC's recommendations regarding "advanced jet training" for crewmembers entering part 121 service as Second-in-Command. The NPRM preamble states:

> "The FOQ ARC unanimously proposed an 'advanced jet training' (AJT) course designed to give instruction in air carrier flightcrew operations in a multiengine aircraft, emphasizing the transition of the professionally qualified pilot to a highly skilled member of an air carrier flightcrew. The ARC proposed course topics including crew resource management (CRM), flightcrew training techniques, high speed and high altitude programming of automatic flight control systems, transport aircraft flight techniques, turbojet operations in all flight regimes and in difficult operational conditions, and use of advanced avionics. The FOQ ARC recommended AJT courses be approved by the FAA to ensure a structured quality training experience. The members of the FOQ ARC recommended that the flight training for the proposed course only be accomplished in simulators.
>
> The FAA agrees that there may be value in a foundational course designed to prepare a pilot for the complexities of air carrier operations. The FAA also believes that if this training were required at the ATP certification level it could address the gap in

> knowledge between the aeronautical knowledge of a commercial pilot and the knowledge a pilot should have prior to entering an air carrier environment."[4]

The FOQ ARC **did not** recommend the AJT course be a prerequisite to the ATP certificate because the ARC recognized AJT would not be applicable to all operations in which an ATP certificate may be utilized. The FOQ ARC recommended the AJT course be required **prior to entering revenue service** – in other words, that an AJT course should be provided by the air carrier prior to flying passengers. However, the FOQ ARC did recognize the benefit of such a course in part 121 airline operations and therefore recommended that credit be given towards the restricted ATP certificate hour requirement for completion of an AJT course. The FAA should reword the AJT requirement so it is required only of individuals employed by part 121 air carriers, prior to flying in revenue service and not as a prerequisite to all ATP certificates. This would decrease the overall cost of the proposed regulation and avoid unnecessary economic burden on individuals seeking an ATP certificate without the intention to use it in part 121 air carrier operations. The FAA should also give credit towards the restricted ATP certificate hour requirement for completion of an AJT course. This would further decrease the overall cost of the proposed rule.

The law of primacy also applies to the AJT course and could have a negative impact on a pilot's training. Unless the pilot is already employed by a part 121 air carrier, it is possible the pilot will have to complete simulator training in an aircraft the pilot never ends up flying. It is even more likely the pilot will not receive training specific to the policies and procedures of the air carrier the pilot is eventually employed by. The FAA's attempts at enhancing safety are actually decreasing safety by encouraging negative learning principles.

Unrealistic Instructor Requirements

While the FAA's proposed rule changes are forcing more pilots in to a very limited number of qualified FSTDs in order to meet minimum requirements, the agency is also changing the requirements of FSTD instructors. Buried in the Proposed Amendment text but not specifically discussed in the preamble is a change to 142.47, which describes part 142 instructor qualifications:

> "If instructing in an FSTD for a curriculum approved under § 61.154 [ATP certification training program] of this chapter, holds an airline transport pilot certificate with an airplane category multiengine class rating, meets the aeronautical experience requirements of § 61.159 of this chapter, and has at least 2 years of experience as a pilot in operations under § 91.1053(a)(2)(i) or § 135.243(a)(1) of this chapter, or in any operation conducted under part 121 of this chapter. Additionally, instructors must have an

[4] Federal Register Vol. 77, No. 40 page 12379, Pilot Certification and Qualification Requirements for Air Carrier Operations.

> appropriate aircraft type rating for the aircraft that the FSTD represents or have received instruction from the certificate holder on any maneuvers or concepts they will demonstrate in the FSTD."[5]

Did the FAA evaluate the qualifications of current instructors at training centers likely to offer the ATP certification training program described in 61.154? AOPA believes some instructors currently employed by part 142 training centers and other facilities likely to offer this training do not meet all of the qualifications the FAA proposes to add to 142.47. Although many instructors would have the type rating this proposed addition requires, some instructors might not have the two years of experience as a pilot in § 91.1053(a)(2)(i) or § 135.243(a)(1) operations. The FAA did not evaluate any costs associated with identifying current instructors who do not meet the operational experience requirements and will not be able to provide this training, or hiring and training new instructors who do meet these requirements. Certainly many instructors will meet these requirements but not all and the FAA needs to include the related costs in the economic evaluation of this proposed rule change. It will only become more difficult to recruit instructors who meet these qualifications as the other proposed requirements decrease the available pilot pool. Further, these new requirements for FSTD instructors are not legislated by PL 111-216. How did the FAA quantify the perceived benefit of this restriction? It appears that since the cost has already been determined to far exceed the benefit in this rulemaking, there is little sense of obligation to justify further costs. Again, this is a clear example of the FAA going beyond the requirements of the legislation.

Arbitrary Age Requirement

The FAA proposes to amend 61.153(a) to allow an individual to obtain an ATP certificate at the age of 21 if the individual seeks certification through 61.160, the new regulations allowing credit towards flight hours for completing a Bachelor's degree with an aviation major at an accredit institution. The individual would receive a restricted privileges certificate. Why did the FAA lower the minimum age for individuals who choose (and can afford) the academic route to certification but not to all ATP applicants? This inconsistency creates a disadvantage for many pilots who would be unable to obtain an ATP certificate prior to age 23 and therefore would have limited career opportunities until that age, while other collegiately trained pilots would have more options. Seniority at air carriers equates to increased pay, better scheduling, and improved overall quality of life. The FAA is promoting inequality among pilots simply because some are able to attend an aviation university and obtain a four-year degree and others cannot and achieve certification through other paths. The cost of this inequality is difficult to quantify because of the unknown number of pilots who will benefit from the age 21 allowance, but it is certainly substantial and has not been accounted for in this rulemaking. The FAA should allow any ATP applicant to obtain the certification at age 21 and receive a restricted privileges certificate.

[5] Federal Register Vol. 77, No. 40 page 12405, Pilot Certification and Qualification Requirements for Air Carrier Operations.

Type Rating for Aircraft Being Flown in Part 121 Air Carrier Operations

AOPA agreed with the unanimous decision of the FOQ ARC that all SICs in part 121 air carrier operations have an appropriate type rating. The FAA asks in the NPRM if a type rating should be required for SICs in part 91subart K and part 135 operations[6]. AOPA does not believe a type rating should be required for SICs in those environments. Many pilots fly in part 91 subpart K and part 135 operations in order to gain flight experience. Part 91 subpart K and part 135 operators are required to have training programs approved by the FAA and new pilot hires must complete the applicable portions of those approved training programs. This training includes company-specific policies and procedures as well as aircraft systems and operations training. Adding a requirement for type ratings for SICs in these operations would significantly increase the cost of this rule with no certain benefit.

Proposed Rule Changes Exacerbate Pending Pilot Shortages

A recent report from the National Association of Flight Instructors (NAFI) says the North American aviation industry will need 82,800 pilots over the next 20 years[7]. In the meantime the average age of professional pilots continues to increase. The FAA's stop-gap measure, the "Age 65 Rule," has been successful in helping to prevent a pilot shortage in recent years, especially when coupled with an overall economic downturn. However the benefits of the Age 65 Rule essentially "expire" in 2012 and 2013 as the first wave of pilots who took advantage of this career extension will turn 65 and retire in large numbers. NAFI indicates 20% of current ATP and commercial pilot certificates are held by pilots over the age of 60. NAFI also points to the number of ATPs issued in recent years as a clear sign of the upcoming pilot shortage: Just over 3,000 ATP certificates were issued in 2009, compared with almost 8,500 in 1990. The issuance of private pilot certificates is also an indicator of the future health of the pilot population. In 1990, approximately 40,000 private pilot certificates were issued. Only 20,000 private pilot certificates were issued in 2009. This proposed rule adds cumbersome requirements to pilots seeking a career in the airline industry at just the time when additional pilots will be needed to meet demand.

A recent Senate Committee on Commerce, Science and Transportation hearing on Commercial Airline Safety Oversight highlighted this concern. The statement of the Honorable Calvin L. Scovel III, Inspector General of the Department of Transportation explained that at two regional

[6] Federal Register Vol. 77, No. 40 page 12385, Pilot Certification and Qualification Requirements for Air Carrier Operations.

[7] "Flight Training Capacity in the Context of Recent Legislation: An Examination of the Impacts of Reduced Training Capacity, and the Declining Rates of Airmen Certification," by Jason Blair & Jonathon Freye, National Association of Flight Instructors, dated March 1, 2012.

air carriers the IG visited, more than 75% of their current first officers did not meet the hour requirements to obtain an ATP certificate[8]. These air carriers also do not have a plan in place to ensure that their pilots meet the new requirements. The IG believed this showed a lack of oversight from the agency in ensuring air carriers have a good transition plan to abide by the changes legislated by PL 111-216 by July 1, 2013. The number of first officers not yet holding an ATP might not be an indication of the FAA's failure to ensure a transition plan is in place; rather it might be an indication that the proposed rule change might not be feasible at some air carriers.

Additional Unconsidered Costs

Single-Pilot Simulator Sessions
The FAA's economic evaluation is simplistic and unrealistic. Aside from the issues already identified, the FAA inappropriately assumes all ATP candidates would complete simulator training in a two-crew environment, thereby cutting the cost of simulator training for each pilot in half. This is unrealistic. Many ATP applicants – especially those outside the air carrier environment, but even some part 135 pilots - will not have a partner for simulator training. AOPA believes the cost of simulator training will be significantly higher than that which the agency has calculated.

Administrative Scheduling Costs
The FAA has not calculated the time required of part 135 air carriers, part 121 air carriers, and individual ATP applicants to navigate the cumbersome schedules of part 142 training centers or airline in-house training centers and schedule simulator training. The FAA should calculate this cost based on an hourly rate of a training department administrator. AOPA expects this cost to be a minimum of 2 hours per ATP applicant. This does not include the additional time required of air carriers and individuals that would be required to identify an appropriate training center, complete the contract process and manage other administrative functions related to outsourced training.

Miscellaneous Costs Related to Training
The FAA accounted for a per diem and hotel expenses related to training but did not account for other costs. The vast majority of pilots will need to travel to a training center to meet the training requirements of this rule but the FAA did not include airfare, rental car, or other travel costs. The agency assumed ATC Certification Training would take place immediately prior to initial training for the air carrier, but there is no data to confirm that assumption and in any case, the FAA does not address pilots seeking ATP certification outside of the air carrier environment.

[8] Testimony Before the Committee on Commerce, Science, and Transportation Subcommittee on Aviation United States Senate; "Progress and Challenges in Responding to Key Provisions of the Airline Safety Act," Statement of The Honorable Calvin L. Scovel III, Inspector General, U.S. Department of Transportation, dated March 20, 2012.

Further, the FAA did not account for the costs of the pilot's time away from their usual duties. AOPA also questions the training pay and benefits rate found in Table 3 "Cost per Pilot of 7-Day ATP Certification Training Program."[9] It seems highly unlikely a pilot earns only $43 a day - $2 per day less than their daily per diem – while training, especially since the FAA claims that includes benefits. This equates to an annual salary of just over $11,200. Although first officers are some part 121 air carriers are not particularly well compensated, AOPA is unaware of any part 121 air carrier that pays first officers only $11,000 a year – and certainly very few other jobs that pay that little. Because the ATP Certification Training Program is required of all ATP applicants – not just those seeking part 121 air carrier employment – the FAA needs to account for the unearned wages of all ATP applicants while attending the ATP Certification Training Program. These earnings will range widely as ATP applicants hold many different occupations, including doctors, teachers, lawyers, and so on. The FAA should analyze a cross-section of ATP certificate holders to more accurately identify the opportunity costs associated with this training requirement.

Negative Impact on Some Training Providers
The FAA's economic analysis ignored a few sectors of the aviation training community. ATP certification training in airplanes makes up a huge portion of some training providers' revenue. One such company is Airline Transport Professionals / ATP. These training providers will undoubtedly lose revenue to training providers with simulator capabilities. The negative impact to these companies was not evaluated. The FAA also did not consider the negative impact on independent part 61 flight schools, other training providers who conduct ATP certification training or DPEs who currently conduct ATP testing.

The FAA's economic analysis does not address institutions with two-year associate programs in aviation. These colleges will undoubtedly be negatively impacted by these proposed rule changes, mostly due to the FAA's decision to provide credit only for completion of four-year degree programs. The FAA must consider the negative consequences these proposed rule changes will have for **all** sectors of the aviation training industry.

Questionable Benefits for Part 135 Air Carriers
The FAA calculates a significant benefit for Part 135 air carriers. However the details of how that benefit was arrived at are not outlined in the Initial Regulatory Evaluation. In fact, the part 135 benefits are described in only three sentences in the entire Initial Regulatory Evaluation, yet the FAA touts throughout the NPRM the obvious positive cost-benefit relationship for part 135 operators. If the cost benefit does not balance for all other segments, how could the FAA conclude that there would be a cost benefit for part 135 operators? Without having access to the agency's supporting data, AOPA believes any "benefits" to part 135 operators are grossly overestimated by the FAA.

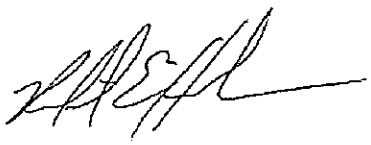
[9] Federal Register Vol. 77, No. 40 page 12390, Pilot Certification and Qualification Requirements for Air Carrier Operations.

AOPA Recommended Revisions to the Proposed Rule Change

AOPA concerns, outlined above, lead the association to recommend the FAA making the following revisions to the proposed rule change prior to publishing and implementing a final rule:

1. Remove simulator requirements from ATP requirements. Simulator requirements are most applicable to certain type ratings, not ATP certificate qualifications.
2. Require AJT prior to placing a pilot in to part 121 revenue service; NOT as a prerequisite to the ATP certificate.
3. Allow credit for individual academic courses.
4. Allow flight training completed at a part 61 and part 141 flight school to count towards total flight hours.
5. Remove restrictive proposed FSTD instructor requirements for instructors teaching the ATP certification training program.
6. Allow any ATP applicant to obtain the certification at age 21 and receive a restricted privileges certificate.

Sincerely,



Robert E. Hackman
Vice President, Regulatory Affairs
Aircraft Owners and Pilots Association

TO: U.S. Department of Transportation
Docket Management System
400 7th Street, S.W., Room PL 401
Washington, D.C. 20591-0001

PETITION FOR EXEMPTION FROM FEDERAL AVIATION REGULATION SECTIONS 61.3 and 61.23 TO ALLOW AOPA AND EAA MEMBERS TO CONDUCT CERTAIN OPERATIONS OF AIRCRAFT WITHOUT HAVING TO HOLD AN FAA-ISSUED MEDICAL CERTIFICATE

PETITIONERS: **AIRCRAFT OWNERS AND PILOTS ASSOCIATION**
421 Aviation Way
Frederick, MD 21701

EXPERIMENTAL AIRCRAFT ASSOCIATION
3000 Poberezny Road
Oshkosh, WI 54902

TABLE OF CONTENTS

PETITION FOR EXEMPTION

The Aircraft Owners and Pilots Association (AOPA) and the Experimental Aircraft Association (EAA) seek an exemption from Sections 61.3(c) and 61.23(a) of 14 C.F.R. to allow its members flying recreationally - according to certain operational limitations and restrictions - to fly without having to hold an FAA-issued medical certificate of any class. The terms of the exemption would provide an equivalent level of safety to that currently provided by existing regulation - similar to a segment of the pilot population who has already demonstrated the ability to safely operate aircraft without holding an FAA issued medical certificate. Moreover, the terms requested may result in a higher level of safety by imposing an ongoing aeromedical educational component - which does not presently exist - to help a pilot better assess his or her medical qualifications to safely operate certain lower performance aircraft in specified environments and conditions.

On behalf of their members, for which they have standing to submit this request, AOPA and EAA seeks relief for their members specifically from the following regulatory requirements:

14 C.F.R. §61.3(c), Requirement for certificates, ratings, and authorizations.

(c) *Medical certificate.* (1) A person may serve as a required pilot flight crewmember of an aircraft only if that person holds the appropriate medical certificate issued under Part 67 of this chapter, or other documentation acceptable to the FAA, that is in that person's physical possession or readily accessible in the aircraft. ...

and

14 C.F.R. §61.23, Medical certificates: Requirement and duration.

(a) *Operations requiring a medical certificate.* Except as provided in paragraphs (b) and (c) of this section, a person:

...

(3) Must hold at least a third-class medical certificate ...

Currently, pilots who operate aircraft in the environments specified in this petition would be required by these regulations to hold at least a third-class medical certificate and to reapply for that certificate every two years if more than 40 years of age or every five years if under 40 years of age. In seeking this relief, AOPA and EAA members, operating in accordance with this request for exemption, would be able to act as pilot in command of an aircraft without the necessity of applying for an FAA medical certificate, but only after having completed an aeromedical education course within the previous 24 calendar months and only after being able to consciously assess prior to each flight that he or she does not have a medical condition that

would make him or her unable to operate an aircraft in a safe manner.[1] A course completion certificate would have to be carried in the pilot's personal possession or readily accessible in the aircraft during each flight conducted under this exemption. Further, members would be restricted in their operations to single-engine fixed-gear aircraft with no more than four seats and 180 horsepower that are not being operated for compensation or hire or in furtherance of a business, and those operations may only be made during the day, in visual meteorological conditions, below 10,000 feet msl (or 2,000 feet agl, whichever is higher), with no more than one passenger.

The educational program required in this request will be offered at no charge on the AOPA Foundation's Air Safety Institute's website. The program will follow the basic design and functionality of existing online courses, incorporating interactivity to keep users engaged, broken up into modules or chapters with train-to-proficiency quizzes in the program. This education and outreach effort has unique value because it will educate the pilot community when such education is currently lacking, and also provide data to validate the effectiveness of the exemption. The education program also supports the FAA's "Transforming General Aviation Five-Year Strategy," which calls for a strategic approach to mitigating risk in general aviation.

The timing of this petition meets the FAA's objective (that consideration of the exercise of any pilot privileges - without the need for a medical certificate) can be made after experience with the Sport Pilot could be reviewed.[2] It has been seven years since the Sport Pilot rule went into effect, and the data gathered from that segment of the flying population strongly supports the terms of this requested exemption.

AOPA and EAA are petitioning for the terms, restrictions, and limitations in Appendix A of this document and are summarized below:

[1] AOPA and EAA may only legally represent the interest of their members, however we would not be opposed if the FAA were to grant a similar exemption to other petitioners who are not members of either organization.

[2] See appendix C for full request history and summaries of FAA responses.

PILOT-IN-COMAND	AIRCRAFT	OPERATION
- Holds valid pilot certificate or is training/applying for a pilot certificate - Meets currency and/or endorsement requirements - Has satisfied the aeromedical course requirements within the preceding 24 calendar months - Holds a valid state driver's license - Pays at least pro rata share of aircraft expenses - Carries pilot/student certificate, driver's license, and aeromedical course certification - Self-assesses medical ability to safely operate aircraft	- Single-engine - Fixed gear - No more than four seats - No more than 180 horsepower	- Day - Under VFR and in VMC, but in no case with less than three statute miles visibility - No more than one passenger - Below 10,000 feet MSL (or 2,000 feet AGL, whichever is higher) - With visual reference to the surface at all times - Not for compensation or hire - Not in furtherance of a business - Not on a demonstration flight - No towing any object - Within the United States, unless authorized in the country where the flight is conducted

AOPA and EAA maintain that granting this petition - according to the limitations and restrictions requested - would not adversely affect safety and would provide for at least an equivalent level of safety as that provided by the rules from which exemption is sought. In particular, operating in accordance with this request for exemption would allow pilots to continue operating aircraft that they are familiar and experienced with and would allow for greater assurance that pilots are currently aware of their personal medical information. The granting of this petition for exemption is in the public's interest. It will foster the health of the aviation industry through preventing unnecessary medical barriers to learning to fly or to continuing to fly.

INTEREST OF THE PETITIONERS

This petition for exemption is being made on behalf of the members of AOPA and EAA. AOPA represents almost 400,000 members and EAA represents approximately 176,000 members. Together, these two associations represent the interests of approximately 70 percent

of the pilots holding active FAA-issued airman certificates[3]. AOPA and EAA members represent the segment of aviation that is known as general aviation, accounting for nearly 25,000,000 hours flown annually in the United States.[4] AOPA and EAA are dedicated to preserving an individual's freedom to fly, supporting a safe and efficient aviation industry, and promoting general aviation.

General aviation is an integral and vital part of the global transportation system, providing services and fulfilling needs that are essential to the nation's economy and a community's needs. The impact of general aviation is direct and indirect, and it serves to affect the nation and the local communities economically and socially. In particular, general aviation contributes more than $150 billion to the U.S. economy annually and employs more than 1.2 million people.

Maintaining a vital general aviation sector in the United States is of critical importance to the public, providing economic benefits and access to small communities throughout the country in times of need. There are 5,261 public-use airports that can be directly accessed by general aviation. That is more than 10 times the number of airports served by scheduled airlines. These public use airports are the only available option for fast, reliable, flexible air transportation to small and rural communities in every corner of the country, providing jobs, serving as a lifeline for small to mid-size businesses, and providing critical services to remote cities and towns in time of natural disaster or crisis.

The United States has relied on civil aviation to assist in times of national need since World War II. In times of war or national disaster, general aviation is called upon to offer support where ground transportation is unavailable or untimely. General aviation pilots, aircraft, and facilities are often included in individual state disaster preparedness planning. The Civil Air Patrol (CAP) and other organizations such as the Air Care Alliance, EVAC (emergency volunteer air corps), and Corporate Aircraft Responding in Emergencies (CARE), offer lifesaving services through search-and-rescue missions or transporting individuals for medical treatments. These organizations also offer support often coordinated through FEMA during national or local disasters.

Besides offering critical support in times of need, general aviation provides a multitude of services to the public including agricultural services and spraying to control mosquitos or other pests that pose a health threat, law enforcement, medical transportation, border control, and search-and-rescue missions. Operations in all segments of general aviation are impacted when general aviation activity declines in any one area. Simple supply-and-demand economics dictate

[3] 2010 FAA Airmen Statistics indicate that there are 627,588 active airmen in the U.S.

[4] FAA General Aviation and Part 135 Activity Surveys - CY 2010

that if operations decrease in any segment, overall costs increase and the ability to maintain local airfields is compromised. Conversely, if we can maintain or grow the interest and use of general aviation, we maintain the economic advantages and public services offered on a national and local level.

As an example of the impact that general aviation contributes on an individual state level, California has 257 public-use airports, 219 of which are general aviation airports. These airports are home to 64,529 pilots and 37,128 general aviation aircraft. General aviation accounts for 80 percent of aircraft operations statewide. California leads the nation in terms of the economic impact of general aviation, generating $18.2 billion and equaling $529 per capita.

In the state of New York, there are 148 airports that support 17,449 pilots and 8,973 general aviation aircraft. The economic impact of general aviation in New York is $9.27 billion or $508 per capita. According to statistics provided by the state of New York's government, total associated and imputed impact is $35.4 billion.[5]

Maintaining the overall strength and activity of general aviation is in the public's best interest.

Aircraft Owners and Pilots Association

AOPA is a nationwide, nonprofit membership organization dedicated to issues involving general aviation. AOPA was formed in 1939 and now represents the interests of almost 400,000 aircraft owners and pilots from every state. AOPA's membership, history, mission, and activities, are described in detail at www.aopa.org.

Experimental Aircraft Association

EAA is an international non-profit membership association dedicated to preserving and promoting personal and recreational aviation of all kinds. EAA was founded in 1953 and now represents 176,000 pilots and aviation enthusiasts. EAA's membership, history, and activities, including its annual convention EAA AirVenture Oshkosh, are described in detail at www.eaa.org and www.airventure.org.

[5] Alliance for Aviation Across America

SUPPORT FOR THE PETITION

This petition for exemption provides for a greater level of safety.

Granting this petition would provide an equivalent level of safety and, in practice, stands to provide a greater level of safety. This petition for exemption requires initial and recurrent education on aeromedical factors exceeding those presently mandated by the FAA and requires an operating limitation linked to state-issued driver's license standards and a self-assessment standard. It also helps to mitigate the increased risk that may occur naturally when pilots transition into unfamiliar and sometimes distinctly different aircraft in order to avoid the sometimes cumbersome and overly conservative FAA medical testing requirements.[6] This petition gives those pilots an alternative that may allow them to continue to fly and to do so in aircraft in which they have familiarity and experience.

Education and conscious medical self-assessment

This petition requires completion of a biennial educational course on medical factors specific to aviation in addition to the day-to-day lives of all individuals. The course would be offered for free to all online. Currently, any education regarding medical factors required by the FAA is limited to physiological factors, and the training is largely only required in the primary training environment; i.e., when a pilot first learns to fly. This request includes a currency requirement for aeromedical education that extends beyond flight physiology and includes medical concerns commensurate with the issues that may be reviewed in the medical application process.

AOPA and EAA bring unique resources to bear in developing and administering of such a course through their ability to work with the AOPA Foundation's Air Safety Institute. Also a breadth of aeromedical professionals will advise in the development of an online education program that would expand and reinforce a pilot's understanding of aeromedical factors, including the warning signs of serious medical conditions; the effects of prescription and over-the-counter medications; dietary/herbal supplements and associated possible side effects and the FAA's medical standards as currently applied.

The Air Safety Institute provides a well-respected organizational basis and culture to effectively educate pilots on the medical subjects affecting their decisions to fly. For more than 60 years, the AOPA Foundation's Air Safety Institute (formerly the AOPA Air Safety

---

[6] For the most part, the experience of AOPA and EAA is that the vast majority of pilots who apply for medical certificates are eventually granted one, i.e., found by the FAA to be able to safely pilot an aircraft from a medical viewpoint. But often this certification occurs only after tremendous cost of time and resources that are unnecessary for the recreational operations contemplated by the pilot.

Foundation) has developed programs in pilot safety and training, and these courses are readily available on the Internet and in person throughout the United States, free of charge and to any person wishing to access them. The Air Safety Institute is the nation's largest non-profit organization dedicated exclusively to providing aviation education and safety programs for general aviation. In 2010, the Air Safety Institute reached the pilot community more than 1.9 million times with its safety education programs. For more information on the Air Safety Institute's mission, safety information database, online training materials and courses, and nationwide seminars, please visit www.aopa.org/asf/.

In addition, there is valuable and significant experience that can be drawn from EAA's education and mentoring programs designed to enhance safety, such as the Flight Advisor and technical counselor programs for amateur-built safety and the traveling Sport Air Workshops that bring hands-on experience to builders and prospective builders of amateur built aircraft. EAA also delivers significant safety information to the pilot community through its network of 900 chapters.

Furthermore, AOPA and EAA may draw on the resources and knowledge of AOPA's Board of Aviation Medical Advisors (BAMA), AOPA's Aviation Technical and Medical Certification specialists, EAA's Aeromedical Advisory Council, and EAA's Information Services Department. The associations receive ongoing medical counsel and expert advice on aeromedical factors from AOPA's BAMA and EAA's Aeromedical Advisory Council, regarding important general aviation medical certification issues and they assist the associations in advocating for sound regulatory medical certification policy. These medical boards are made up of physicians representing multiple medical disciplines and include several FAA-designated aviation medical examiners (AME) and members of both the Aerospace Medical Association and the Civil Aviation Medical Association. These boards offer advice and counsel to the associations' medical certification staff on individual member cases, provide medical consultation and advisory services to members, and represent the organizations at their respective annual conventions. The AOPA Aviation Summit and EAA AirVenture Oshkosh are venues that provide a rich environment for exchange of ideas regarding medical certification policy, special issuance, certification processing, and many other medical issues important to pilots.

AOPA and EAA have a staff of medical certification specialists who have more than 45 years of combined experience in assisting pilots and who work closely with the FAA to provide accurate and up-to-date information regarding FAA medical certification policies and procedures. The AOPA website is regarded as one of the most comprehensive sources for information about the medical certification process. The website includes detailed guidelines for many specific medical conditions, a database of medications that are allowed for use by pilots, and an interactive medical application planning tool to assist pilots in accurately completing an

application for airman medical certification. EAA information services personnel answer questions, develop and provide information kits, and guide members to an AME with the most appropriate expertise for a given case.

The aeromedical education program that will be developed is intended to greatly enhance a pilot's understanding of medical considerations related to aviation safety and make pilots better prepared to evaluate their medical fitness for flight. Moreover, the course material would not be stagnant; rather, while always covering the core aeromedical issues, the program can be designed to include developing medical concerns in the aviation community and other current medical matters relevant to a pilot's need to determine his or her ability to safely operate an aircraft. The course would also review the pilot's legal responsibilities while operating in accordance with this exemption. The resulting improved knowledge and understanding of aeromedical factors and decision making tools provided through the course would give pilots the resources to best evaluate their fitness to fly. This would provide an equivalent or greater level of safety than the FAA's current practice (periodic medical examinations and no ongoing aeromedical education).[7]

In making a conscious preflight decision about medical fitness to operate an aircraft in accordance with this exemption, the pilot is expected to be able to represent in good faith prior to each flight that, after having been educated on medical issues that pertain to flight within the preceding 24 months, that the airman does not know and does not have a reason to know of any medical condition that would make that airman unable to operate an aircraft in a safe manner. Meaningful self-assessment, beyond that which is presently required in the regulations, is a key component in this petition for exemption. Pilots participating in this exemption are required to consciously conduct a self-evaluation and make a decision about their health prior to any flight.

Reasonable operating limitations and restrictions

Operational limitations and restrictions for pilots utilizing this requested exemption expand upon the proven and successful medical safety standards of the Sport Pilot certificate, which currently utilizes the driver's license medical standard in lieu of an FAA medical certificate. The AOPA/EAA-requested exemption would include limitations on the type of aircraft allowed to be flown under this exemption (single engine, 180 horsepower, fixed gear…) as well as the permitted operations (day, VMC, one passenger…).

---

[7] Nothing in this petition for exemption is intended to interfere with or replace a pilot's responsibility to comply with FAR 61.53 that prohibits acting as a required flight crewmember, when a medical certificate is not required, with a medical condition that the person knows or has reason to know would make that person unable to operate the aircraft in a safe manner.

Familiarity in aircraft and operations

Incentivizing pilots to continue to operate aircraft they are familiar with reduces the safety implications inherent in transitioning from one type or category of aircraft to another. Under this requested exemption, more pilots would be able to continue to fly in aircraft with which they are most familiar. Currently, regulations prohibit these aircraft from being flown by a pilot who does not wish to obtain a valid medical certificate. Therefore, those pilots with qualifying aircraft under this requested exemption would have the choice to continue flying their aircraft instead of transitioning to a new, unfamiliar aircraft and the risks associated with doing so. The vast majority of aircraft that fall within the limitations of this exemption are aircraft in which most pilots were originally trained and certificated in, thus capitalizing on the law of primacy and minimizing risk. Furthermore, requiring pilots to fly in favorable weather conditions, during the day, and under other propitious circumstances contribute to the assurance of safe flight.

Equivalent level of safety is demonstrated in history

This petition for exemption is backed by sound statistical data that demonstrates an equivalent level of safety regarding aeromedical factors between those operations that currently require a medical certificate and those operations that do not currently require a medical certificate. There is an extremely low incidence of medically related accidents across both factions, supporting the conclusion that a medical certificate may not always ensure a lower incidence of medically related aviation accidents.

An FAA Aviation Rulemaking Advisory Committee (ARAC) reviewed accident summary data from 1986 through 1992 to determine the prevalence of medical causal factors in aviation accidents.[8] The findings of the ARAC concluded that the percentage of aviation accidents involving medical causal factors is actually lower for those activities that do not require medical certificates than for those activities that do. During the seven-year timeframe studied, the ARAC found 761 accidents in lighter-than-air aircraft and gliders – operations that do not require airman medical certification. Only one of the 761 accidents (0.13 percent) showed a medical cause. For general aviation operations requiring airman medical certification, there were 46,976 total accidents. Slightly more than 0.2 percent (99 total accidents) showed a medical cause. It is important to note that none of these accidents were prevented by the existence of third-class medical screening standards and the medical certification process.

In 2005, the AOPA Air Safety Foundation (now the Air Safety Institute) examined 16,030 general aviation accidents in fixed-wing aircraft under 12,500 pounds that occurred from

[8] Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, Notice of Proposed Rulemaking, 67 Fed. Reg. 5367, 5375 (Feb. 5, 2002).

1995 to 2004. The review showed that only 24 accidents (0.15 percent) were attributable to medical incapacitation of a pilot who was properly certificated and operating the airplane in accordance with the regulations. Of these medical incapacitation accidents, only six (less than 0.04 percent) were caused by a properly certificated pilot while operating an airplane in a manner that meets the aircraft and operational limits set forth in this petition. These pilots held FAA-issued medical certificates, yet none of these six accidents were prevented by the third-class medical screening standards. The risk to aviation safety by removing the third-class medical requirement for this segment of the recreational aviation community would be negligible, and indeed, AOPA and EAA maintain that safety would be improved by enhancing the knowledge and awareness of the pilot community regarding aeromedical factors.

Since the Sport Pilot rule became effective in 2004, there is no evidence that the driver's license medical standard has contributed to an increase in the accident rate because of aeromedical factors - quite the contrary. The AOPA Foundation's Air Safety Institute recently conducted a study of Light-Sport aircraft (LSA) accidents that showed that no Light-Sport aircraft accidents had occurred as a result of pilot incapacitation because of medical deficiencies at the time of the study. There have been a total of 134 accidents in S-LSAs between 2006 and 2010, 16 of which were fatal. The vast majority of the pilots involved in these accidents (78 percent) held a private or higher certificate and 50 percent of all the LSA accidents were classified by the NTSB as instructional or transition flights. These statistics lend credence to the theory that pilots transitioning from traditional general aviation aircraft to LSAs are experiencing more accidents because of lack of familiarity with the newer aircraft. Giving pilots an option to continue flying aircraft with which they are most familiar without having to deal with the unnecessary hassle and cost associated with the third-class medical certificate application process, may reduce the accidents associated with transitioning to an unfamiliar aircraft.

The safety statistics of glider, balloon, and Sport Pilot operations offer empirical evidence that serves as an informal clinical trial for medical self-assessment. Similarly, the data gathered from operations conducted under this exemption, if granted, would provide valuable information and data relevant to the safety experience of this exemption and future considerations by the FAA regarding medical certification requirements.

The FAA captures the number of "active airmen" based on the FAA medical application process, but "inactive airmen" data is lost including those pilots not required to hold a medical certificate. Therefore, statistics related to the number of pilots actively operating under the Sport Pilot, balloon, or glider categories are not entirely accurate. In 2010, FAA U.S. Civil Airmen Statistics indicated that there were 3,682 active Sport Pilots and 21,275 glider-only pilots; however, the numbers of "active airmen" may only be ascertained for those who also had a valid medical certificate on file with the FAA. The education program required by this exemption could be used to capture statistics about active airmen using the exemption that would otherwise

be unavailable to the FAA because of the absence of a medical certificate. Further, this data could be used to validate the effectiveness of this exemption and potentially justify permanent regulatory expansion of medical self-assessment.

The FAA often relies on historical experience and statistical support to justify any change in or exemption from existing regulations to ensure that an equivalent level of safety is maintained. It is for that reason that the FAA often enacts incremental and informed modifications rather than a sweeping overhaul to existing rules. Relevant, qualified experience and data support the FAA's approach to exempting (and eventually changing) the regulatory requirements as requested in this petition.

Examples of measured changes include the FAA's 2010 policy revision to allow special issuance medical certification for pilots using selective serotonin reuptake inhibitor (SSRI) antidepressant medications.[9] The decision was made after the FAA conducted a multi-year evaluation and lengthy debate among civil aviation medical certification specialists and the FAA. In its policy statement, the FAA stated, "The FAA, however, has long considered the use of a psychotropic medication for treatment of depression as a basis to deny a special-issuance medical certificate. ... Upon careful review and reconsideration, the FAA is modifying its long-standing, special-issuance practice." Part of the rationale for its change in policy was a May 2004 report[10] where it was determined that pilots would rather risk not taking prescribed antidepressant medication than be grounded. The FAA determined that "[s]cenarios involving individuals who might risk flying while taking an antidepressant without medical oversight, or flying without taking an antidepressant when they need to be, are unacceptable."[11] In this action to allow use of SSRI medications, the FAA acknowledged the potential safety enhancement of encouraging pilots who need medical treatment to seek such treatment without fear that they will be grounded.

There are also examples of FAA exceptions to regulations that have subsequently become law; i.e., where the FAA has promulgated a rule change to codify an existing, proven exemption. Examples include the exemption from drug testing for charitable sightseeing flights and the exemption allowing a flight instructor to provide instruction in an airplane that is equipped with a single, functioning throw-over control wheel in place of fixed, dual controls.[12]

---

[9] See Special Issuance of Airman Medical Certificates to Applicants Being Treated with Certain Antidepressant Medications, 75 Fed. Reg. 17047 (Apr. 5, 2010).

[10] Journal of Aviation, Space, and Environmental Medicine (Vol. 75, No. 5) entitled "Aeromedical Regulation of Aviators Using Selective Serotonin Reuptake Inhibitors for Depressive Disorders."

[11] 75 Fed. Reg. 17047, 17049.

[12] 14 C.F.R. § 91.146(b) and § 91.109.

AOPA and EAA have petitioned to expand a driver's license medical standard to pilots flying recreationally numerous times in the past 25 years. These petitions addressed natural advancements in medical knowledge and experience, the evolution of an aging but healthy pilot population, greater access to information, and increased awareness.[13] Our members have continued to voice their strong support for this type of request. In a 2009 AOPA member poll, 72 percent of respondents indicated they are in favor of entirely eliminating the third class medical certificate for pilots flying for recreational purposes. Similar surveys by EAA indicate that reducing barriers to airmen medical certification should be a top priority of the organization's advocacy efforts. Yet, every previous effort to expand this standard has been denied or disregarded by the FAA. However, in the FAA's most recent denials of AOPA and EAA petitions, the FAA acknowledged that these requests and the FAA's Sport Pilot proposal addressed similar issues, but said that the petitions were "premature." Importantly, the FAA also stated that it wanted to evaluate the operations of Sport Pilots using a valid driver's license in lieu of a medical certificate before extending the option to other recreational aviation privileges. Sufficient evidence now exists to grant our request for exemption from the requirement of the 3rd class medical for pilots flying recreationally. Seven years of exemplary medical safety record for Sport Pilots and pilots operating under the privileges of a Sport Pilot certificate, combined with other statistically relevant data, justifies exempting additional recreational aviation activities from the requirement for a medical certificate. This is especially true when airmen are further educated and better able to assess their medical fitness to fly than currently able today.

This petition for exemption does not adversely affect safety

Granting this petition for exemption would not adversely affect safety. Currently, several segments of the pilot population are permitted to operate aircraft without holding an FAA-issued medical certificate of any class. Historically, pilots flying gliders and balloons have not been obligated to hold medical certificates, but must determine their medical fitness prior to flight.[14] Most recently, in 2004, the FAA promulgated the Sport Pilot rule, which allows all pilots to exercise the privileges of the Sport Pilot certificate without a FAA medical certificate.[15] In the Sport Pilot rulemaking process, the FAA emphasized a pilot's responsibility to exercise prudent judgment regarding his medical fitness to fly. "The FAA cannot overemphasize the crucial responsibility placed on those exercising Sport Pilot privileges to carefully consider fitness to fly before every flight... no level of airman medical certification will ever alleviate this

---

[13] For a description of the relevant exe ption requests, please see Appendix C.

[14] See 14 C.F.R. 61. (c)(2) and 61.5 (b).

[15] See 14 C.F.R. 61. (c)(2)(v); Certification of Aircraft and Air en for the Operation of Li ht-Sport Aircraft, Final Rule, 69 Fed. Re . 44772, 44815 (July 27, 2004).

responsibility."[16] The FAA acknowledged that such allowances may not adversely affect aviation safety and that the experience gained from the Sport Pilot rule can serve as validation to expand the concept to other pilot privileges.[17] Seven years later, there have been no NTSB accident reports in Sport Pilot operations that list medical incapacitation as a causal factor. There has been no adverse safety experience or degradation of safety related to the absence of a medical certificate requirement, thus supporting this petition to expand these privileges to the next level of aircraft and operations.[18]

Prompt action on this petition is warranted to avoid adverse effects on aviation safety

AOPA and EAA members have voiced concerns about seeking professional medical care because of fears that they may be saddled with case histories - right or wrong - that jeopardize their medical qualifications or severely complicate their ability to satisfy the FAA inquiries into their medical status. Having this requested exemption available as an option for those pilots would encourage them to be more mindful of their health, including practicing preventative medicine or choosing to investigate signs or symptoms of a developing medical condition with their physician, whether or not the issue would, in fact, affect a review of their medical certificate qualifications. These are the real-life developments that are not always caught during an FAA medical examination. However, they may be detected and addressed during routine visits to health professionals, which are to be encouraged not discouraged, by the system that gives these pilots privileges to fly. Under this petition for exemption, pilots could have symptoms checked and gain a better understanding of how the symptoms could adversely affect safety of flight. Having such knowledge to determine fitness for flight would thereby enhance safety.

As with many aging Americans who have been less focused on maintaining a healthy lifestyle, members who face a first-time special issuance are often challenged with poor nutritional habits, no regular exercise, and are often unaware of the consequences their high-risk medical conditions may have on their overall health and often unaware that a medical condition could be lurking that could affect their safe operation of an aircraft even though they otherwise feel fine. However, pilots are wary of seeking any medical advice, even as a precaution, because of the perceived automatic negative effect it will have on their next medical application review. When a diagnosis of a serious medical condition is made, the pilot is no longer eligible for an unrestricted FAA medical certificate. AOPA's medical certification specialists receive

[16] 69 Fed. Reg. 44772, 44816.

[17] 69 Fed. Reg. 44772, 44818.

[18] www.ntsb.gov/accidentquery/index/aspx.

approximately 100 calls per week from members with various cardiac conditions requesting assistance navigating the arduous process associated with special issuance requests.

Once corrective action is taken to manage the condition, either through diet, medication, lifestyle change, more aggressive intervention, or a combination of steps, these individuals often become better motivated to maintain their health and may end up healthier than before the original diagnosis was made. Ironically, it is most often after the pilots have received diagnosis and treatment for the condition and have modified their lifestyles that they can no longer obtain an unrestricted medical certificate through their FAA-designated AME. These pilots must continuously prove their health through the FAA's discretionary special issuance process. The process usually requires additional testing, which can be expensive and time consuming and proceeds at a pace that the FAA controls.

The aeromedical education course required in this petition delves into signs and symptoms that indicate a deterioration of pilot-related skills expected with diagnosis of specific medical conditions, something that the FAA does not currently offer. The personal assessment required for deciding present medical fitness for flight is a timelier and more accurate predictor of pilot performance for a given flight than the multi-year FAA medical evaluation or special issuance authorization. Conscious and educated individual medical assessments are crucial for pilots with underlying medical conditions. The medical education course required by this exemption would give pilots the currently unavailable education they need to conduct a more accurate assessment of their fitness to fly.

The Public Interest

The public has a strong and substantial interest in maintaining, developing, and improving the aviation industry and in supporting the FAA's statutory duties of, among other things, maintaining and enhancing safety, regulating in a way that best promotes safety, developing and encouraging aeronautics, and preserving the public right of freedom of transit through the navigable airspace. This petition for exemption is in the public interest because it would establish an efficient process for pilots to continue to fly in a safe manner without having to endure the undue and unnecessary burden of a regulatory medical process.

The regulations from which exemption is sought require that each pilot must obtain a medical certificate to fly in almost all facets of aviation, including recreational or personal transportation flying. However, oftentimes, there is a practical barrier created by these regulations that prevent the general aviation pilot from continuing to fly small aircraft for recreational purposes. In most instances, that barrier to medical certification can be overcome, but the cost, time, and hassle of obtaining a third-class medical certificate is too much for the recreational pilot to invest. In these circumstances, many pilots will either decide either to stop flying or transition to unfamiliar aircraft where the regulatory medical certificate barrier doesn't

exist. This consequence conflicts with the public interest. Pilots need to remain engaged in aviation and be allowed to operate aircraft in which they are familiar and experienced.

Moreover, the current regulatory structure provides for pilots to be educated about some aeromedical factors during their initial flight training but recurrent education in these areas is not presently required. Pilots are currently motivated by their own safety to fly healthy and their understanding of the requirement to refrain from flying with a known medical condition. However, it is in the public interest to give pilots ongoing access to up-to-date, relevant, and practical information regarding healthy flying as they progress well beyond the information provided during initial flight training. And, it is in the public interest to give the pilot an objective reason to access this information and keep it a part of their flying.

The general aviation industry depends on the participation of pilots, mechanics, flight instructors, aircraft builders, and other individuals who support flight activities. Of no small import to the health of general aviation are those pilots who fly strictly for recreational or hobby purposes. These pilots contribute to the financial stability of a system of airports, manufacturers, and companies that deliver necessary economic resources to communities nationwide. It is in the public interest to keeping these pilots safely flying to support the strength and longevity of general aviation, a segment of the aviation industry that meets the needs of communities and contributes to the quality and efficiency of commercial aviation.

The public interest supports this petition for exemption. Pilots who remain aeromedically safe to operate in accordance with the conditions set forth in this petition should continue to do so without - a regulatory system that at times unfairly and - unnecessarily excludes recreational aviators because of the cost and time associated with obtaining medical certification.

This petition also meets President Barack Obama's call for eliminating unnecessary regulatory requirements and reducing federal spending. The pilots who exercise the privileges provided by this petition would benefit from improved regulation, and the public may benefit from appropriate cuts in federal spending enforcing regulations that do not add materially to the safety of the aviation system. Approving of this exemption could reduce government spending by an estimated $11,530,910 over 10 years.

In short, the public interest is served by increasing safety through education, maintaining and strengthening the economic wellbeing of general aviation, reducing government spending, potentially reducing a number of aircraft transition-related accidents, and giving the FAA necessary data to maintain the safety of individuals operating aircraft in our nation's airspace.

Estimated impact

AOPA and EAA estimate that this petition for exemption would likely affect 39,120[19] pilots annually and between 86,664 and 114,333[20] single-engine piston airplanes. This represents approximately 6.2 percent of the pilots eligible to fly in the United States[21] and 37.4 to 49.3 percent of the airworthy aircraft in the United States[22]. This petition for exemption would reduce the unduly burdensome and needless barriers for this population of pilots who may safely operate a greater number of available aircraft.

This proposal would result in substantial economic savings for pilots and the federal government. Utilizing formulas, assumptions, and figures developed for the economic analysis of the FAA modification of certain medical duration standards in 2007, we have calculated that this proposal would generate savings of $241,929,900 to pilots over 10 years and savings to the federal government of more than $11,530,910 over the same period. For full economic impact, including assumptions and calculations see Appendix D. As a consequence of pilots operating aircraft in accordance with this petition for exemption, individual pilots would be able to conserve resources and continue to positively contribute to aviation. Meanwhile, the federal government would have eased unnecessary regulation and reduced needless spending.

REQUEST FOR PUBLICATION AND PUBLIC MEETINGS

AOPA and EAA request that a summary of this petition for exemption be published in the federal register for comment and that the FAA hold public meetings on the petition for exemption so that the FAA may be fully and fairly informed regarding the appropriateness of this petition and so that a dialog concerning the petition may be shared between industry and the FAA prior to any substantive decision be made.

CONCLUSION

AOPA and EAA submit this petition for exemption request as rational and warranted by objective and relevant statistics, as well as practical considerations supporting aviation safety. It is consistent with the FAA's trend in relaxing medical certificate requirements for other similar

---

[19] Appendix D contains the economic analysis and assumptions used to obtain these estimates. Estimated number of third-class medical applicants that would participate plus the estimated number of special issuance applicants that would participate.

[20] Appendix E contains eligible aircraft numbers provided by GAMA.

[21] 2010 FAA Airmen Statistics indicate that there are 627,588 active airmen in the U.S.

[22] 2009 Research and Innovative Technology Administration Bureau of Transportation Statistics, Number of U.S. Aircraft, Vehicles, Vessels, and Other Conveyances indicates that there are 231,648 registered aircraft in the U.S.

operations. The limitations and restrictions in this petition for exemption would maintain or enhance aviation safety by incentivizing pilots to continue flying in aircraft with which they are already familiar and enhancing knowledge and awareness of aeromedical factors through mandatory recurrent education for all pilots utilizing the exemption. Further, it is in the public interest to foster aviation for pilots, air carriers, manufacturers, and all of those who make a living using aviation or who rely on aviation for commerce and transportation; keeping the cost of flying reasonable; and conserving government resources, possibly allowing those resources to be redirected to more urgent safety programs. The data collected from those operating under this requested exemption could provide otherwise unattainable validation for the extent a medical certificate may be necessary.

The jury is in - the FAA now has undeniable, sufficient evidence from operations not requiring a medical certificate, including the new information derived from the sport pilot certificate, to grant this request.

For the reasons stated above, AOPA and EAA request that the FAA act favorably and expeditiously on this petition for exemption. AOPA and EAA stand ready to assist the FAA as it considers the regulatory exemptions requested herein, and others as may be necessary, and the development and deployment of appropriate training and education materials.

Sincerely,

Craig Fuller
President and CEO
Aircraft Owners & Pilots Association

Rod Hightower
President and CEO
Experimental Aircraft Association

Appendix A. Proposed Aircraft and Operating Limitations under a Driver's License/Self-Assessment

Limitations placed on pilots utilizing the AOPA / EAA exemption would include the following limitations[23]:

(a) A person operating under the AOPA/EAA medical exemption may:

(1) Carry no more than one passenger; and

(2) Not pay less than the pro rata share of the operating expenses of a flight with a passenger, provided the expenses involve only fuel, oil, airport expenses, or aircraft rental fees.

(b) A person operating under the AOPA/EAA medical exemption may not act as pilot in command of an aircraft—

(1) That is certificated—

(i) For more than four occupants;

(ii) With more than one powerplant;

(iii) With a powerplant of more than 180 horsepower, except aircraft certificated in the rotorcraft category; or

(iv) With retractable landing gear;

(2) That is carrying a passenger or property for compensation or hire;

(3) For compensation or hire;

(4) In furtherance of a business;

(5) Between sunset and sunrise;

(6) At an altitude of more than 10,000 feet MSL or 2,000 feet AGL, whichever is higher;

(7) When the flight or surface visibility is less than 3 statute miles;

(8) Without visual reference to the surface;

(9) On a flight outside the United States, unless authorized by the country in which the flight is conducted;

(10) To demonstrate that aircraft in flight as an aircraft salesperson to a prospective buyer;

(11) That is towing any object.

(12) Without completion of the AOPA/EAA airman medical education course within the preceding 24 months

[23] All pilots who hold a recreational pilot certificate will also be limited by the privileges and limitations listed for the recreational pilot certificate under §61.101. For example, a recreational pilot will still require an endorsement prior to cross-country flight beyond 50nm.

Appendix B: Medical Educational Course description and outline

Course Overview

Current FAA-required training material emphasizes the physiological factors that can lead to in-flight emergencies such as hypoxia, hyperventilation, middle ear and sinus problems, spatial disorientation, motion sickness, carbon monoxide (CO) poisoning, stress and fatigue, dehydration, and heatstroke. Additionally, the FAA provides minimal education of physiological factors that should be self-assessed pre-flight by pilots such as illness, effects of medication, alcohol, fatigue, stress, and current emotional state. There is no training on identifying signs and symptoms associated with serious medical conditions. This course will be designed to teach pilots how to identify the signs and symptoms of serious medical conditions and how to conduct a self-assessment. The course will be valuable not only for pilots participating in the exemption but for all pilots in the years between AME exams.

The online course will follow the basic design and navigation functionality of the Air Safety Institute's existing online courses. Features may include images, illustrations, animations, video, and other types of interactivity to engage users. The course will be broken up into modules / chapters with train to proficiency quizzes at the end of each chapter. A course completion certificate will be made available after successful course completion. The course subjects significantly supplement the primary training physiological education and will make due reference to the *Airmen's Information Manual* and FAA website resources pertaining to medical issues.

Content

Training elements should include:

1. Program Guidelines – Pilot responsibilities
    a. Recurrent course completion (every 24 months)
    b. Print out certificate of completion, keep certificate with pilot certificate and make available for FAA inspection as proof of course completion / eligible to operate under the AOPA/EAA exemption
    c. Review the baseline of health validated with a current and valid driver's license – must have available for FAA inspection
    d. Definition of self-assessment of health – prior to each flight, consideration must be given to current state of health as well as recent medical history and medications taken
    e. 14 CFR 61.53 requirement

f. Limitations and privileges associated with operating under the AOPA / EAA medical exemption – with a special emphasis on the limitations of size of aircraft and type of operations

2. Medical Certification
    a. Preventative Medicine
        i. Exercise
        ii. Diet
        iii. Body Mass Index
        iv. Non-smoking
        v. Hydration
        vi. Blood pressure
        vii. Regular doctor visits
        viii. Supporting statistics from health insurance carriers regarding the effects on people who participate in preventative medicine
        ix. Tools for pilots – online weight / exercise trackers, etc.?
    b. Self-assessment overview
        i. Requirement of 61.53
        ii. Review of flight physiology from AIM
            1. Alcohol
            2. Fatigue
            3. Stress
            4. Emotion
            5. Effects of Altitude
                a. Hypoxia
                b. Ear block
                c. Sinus block
                d. Decompression sickness
                e. Hyperventilation
                f. Carbon monoxide poisoning
            6. Illusions in flight – physical illusions from inner ear or spatial disorientation
            7. Aerobatic flight – G forces
        iii. Current state of health including health history
            1. Wellness assessment
            2. Identifying symptoms that are most common in flight incapacitation risks
            3. Aeromedical implications / evaluation of risk factors
            4. Age related considerations
            5. Tools available to assist pilots with self-assessment

c. Diagnosed medical conditions
    i. Cardiac
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
    ii. Neurological
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
    iii. Lung
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
    iv. Diabetes
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
    v. Cancer
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
    vi. Vision
        1. Symptoms
        2. Risk assessment
        3. Tools/resources for pilots
d. Medications
    i. AIM guidance
    ii. Time since use considerations
    iii. Commonly prescribed meds
    iv. Pain medications
    v. Over the counter meds
        1. Cold medications
        2. Analgesics
    vi. Herbal medications/homeopathic medications/supplements
    vii. Mentation - Psychotropic effects
    viii. Altitude effects on medication effects
    ix. Surgeries
    x. Tools for pilots
        1. medications list online

Appendix C. Historical listing of efforts to relieve overly burdensome and unnecessary medical certification requirements

1938 - 1971

The 1938 Code of Federal Regulations required an appropriate physical examination before a pilot could test for a pilot certificate but did not provide for the issuance of airman medical certificates. In 1942, a system for the issuance of medical certificates was adopted that provided for the issuance of first-, second-, and third-class medical certificates.

A number of specific changes to the medical standards took effect in 1959. Electrocardiographic examination was required of first-class medical certificate applicants to demonstrate the absence of myocardial infarction and to identify other cardiovascular conditions. Additional medical standards were added related to a person's general physical condition and nervous system. As a result of the recommendations from a Flight Safety Foundation (FSF) study, the procedures were amended to prohibit the granting of special issuances to airmen with the following medical conditions: an established diagnosis of diabetes requiring insulin or other hypoglycemic treatment agents; a history of myocardial infarction or other evidence of coronary artery disease; or, a history of an established diagnosis of psychosis, severe psychoneurosis, severe personality abnormality, epilepsy, chronic alcoholism or drug addiction.

The Federal Aviation Act of 1958 provided for the granting of exemptions by the FAA administrator, and in 1960, the FAA specified that the existing general exemption procedures applied to the medical standards. Shortly afterward, rapid developments in medical knowledge about the disqualifying conditions and the development of improved techniques for prediction of their risk for incapacitation led the FAA to grant exemptions, with appropriate limitations, to many persons with the above conditions.

In 1971, the authority to grant or deny petitions for exemption from Part 67 was delegated to the Federal Air Surgeon in an effort to reduce administrative processing time and lower costs for the FAA in the granting of exemptions.[24] The FAA granted more than 3,000 medical exemptions in the ensuing years. Overall, the safety record of airmen who were granted exemptions has been at least as good as that of the airmen who hold medical certificates issued under the medical standards.

[24] 36 Fed. Reg. 3462 (Feb. 25, 1971)

1979 to present

AOPA and EAA have a long history of petitioning the FAA and commenting to rulemaking actions to expand the duration of the third-class medical certificate and substitute the need for a medical certificate with the use of a driver's license for recreational flying activities. These efforts span more than 30 years.

1979 - AOPA petitions to increase the duration of third-class medical certificates: On May 11, 1979, AOPA petitioned to amend § 61.23 to require medical examinations for private pilots at three-year intervals rather than every two years. The petition was based on AOPA's belief that safety would not be compromised, that private pilots would realize a significant economic savings, and that it would reduce the FAA's workload and allow better administration of the medical certification system.

1982 - FAA issues NPRM to revise duration of medical certificates: On December 2, 1982, the FAA issued a notice of proposed (NPRM) rulemaking to revise the duration of airman medical certificates.[25] The FAA stated in the NPRM, "In response to Executive Order 12291, these proposals, if adopted, will reduce a regulatory and economic burden on certain general aviation pilots and reduce a paperwork burden on the agency. This proposal replies to a petition from the Aircraft Owners and Pilots Association." Prior to drafting the NPRM, the FAA surveyed and analyzed medical literature and Department of Defense policies of aeromedical certification data. The FAA also contracted with Johns Hopkins University to prepare a detailed statistical analysis of computerized medical information collected by the FAA from annual examinations on approximately 31,000 air traffic controllers over a 15-year period. The study sample was demographically comparable to the private pilot population and the examinations were similar to airman medical examinations. In conclusion, the FAA stated in the NPRM, "The FAA agrees with the concept of the AOPA petition. It has been determined, however, that the frequency of third-class medical examinations for persons without detected pathology should be based on the age of the airman. After reviewing the Johns Hopkins University statistical analysis and other available data, the FAA proposes to lengthen the validity period of most third-class medical certificates for persons under the age of 56."[26]

1985 - FAA withdraws NPRM: On September 27, 1985 the FAA announced withdrawal of the NPRM to revise the duration of airman medical certificates, stating "[w]hereas Notice No. 82-15 dealt solely with the duration of airman medical certificates, the FAA has announced and is conducting a complete review of the medical standards for airmen and of its certification practices and procedures (47 FR 16298, April 15, 1982; 47 FR 30795, July 15, 1982). As part of

[25] 47 Fed. Reg. 54414 (Dec. 2, 1982)

[26] Id. at 55415.

that review the American Medical Association (AMA) is reviewing these standards and procedures and is expected to report its recommendations to the FAA in February 1986. Given the imminent issuance of the AMA's report, and the fact that the report may well provide the FAA with better data on which to base an evaluation of the safety concerns regarding the proposals which were raised by the medical community, the FAA has decided to withdraw the notice and reconsider this matter in the context of its review of the AMA's recommendation. Any future consideration of examination frequency will be given within the context of this study's outcome."[27]

1985 - FAA issues a NPRM to establish recreational pilot certificates: On June 25, 1985, the FAA issued a NPRM to revise the regulations to establish recreational pilot certificates.[28] According to the NPRM, "The primary basis for this proposed rule is a petition submitted to the FAA by a committee formed by the National Association of Flight Instructors (NAFI). The committee was formed in response to an initial proposal submitted to the FAA by the Aircraft Owners and Pilots Association (AOPA) and later withdrawn in anticipation of the committee's recommendations. The purpose of the committee, which was composed of industry and FAA people involved in pilot training, was to review the requirements for certification of student and private pilots. The committee included representatives of the University of North Dakota, University of Illinois, Flying magazine, Embry-Riddle Aeronautical University, Auburn University, AOPA Air Safety Foundation, and Instrument Flight Training, Minneapolis, and Office of Flight Operation FAA."

"The committee found that past revisions of Part 61 had imposed an unnecessary burden on a segment of the flying public. These revisions had so changed the requirements for private pilot training in instrumentation that: (1) less expensive, simple aircraft were no longer used for training because these aircraft were not equipped with the necessary instruments and (2) the hours for training had necessarily increased even for student pilots whose interests were solely in flying basic aircraft. The committee's solution to the problem was to propose two new categories of pilot certification: student recreational and recreational pilot to be certificated for flying only basic aircraft."

As part of the NPRM, the FAA solicited comments and supporting documentation on the third-class medical certificate requirement, including the degree to which it is a burden and alternative ways to assess an individual's medical fitness, such as using a driver's license which shows the status of the applicant's vision, or a family physician's testament to basic health.

---

[27] 50 Fed. Reg. 39619 (Sept. 27, 1985).

[28] 50 Fed. Reg. 26286 (June 25, 1985).

The limitations proposed in the NPRM for the Student Recreational and the Recreational pilot certificate were to allow for "somewhat reduced eligibility and training requirements in comparison to those required of private pilots." "The proposed rule considers one of two options for the medical eligibility requirements: (1) a third-class medical certificate, or (2) a certification by the prospective recreational pilot that he/she has no known medical defect that would interfere with his/her ability to safely operate an aircraft."[29]

AOPA and EAA submitted separate comments to the NPRM "Certification of Student Recreational, Recreational, Student Private and Private Pilots". In these comments, AOPA and EAA supported the proposal that a recreational pilot has the authority to "self-certify" their medical condition and maintained then, as they do today, that the successful "self-certifying" medical provisions authorized for the glider and balloon community should be extended to pilots who fly recreationally.

1986 - AOPA again petitions for increased duration of third-class airman medical certificates: On February 26, 1986, AOPA again petitioned the FAA, Docket No. 24932, to revise the duration of a third-class airman medical certificate to 36 calendar months for noncommercial operations requiring a private, recreational, or student pilot certificate.

1989 - FAA issues final rule creating recreational pilot certificate with required medical certificate despite overwhelming support for self-certification: On March 29, 1989, the FAA issued their final rule creating the recreational pilot certificate.[30] In that final rule, the agency stated: "An overwhelming majority of the comments received on this issue favor self-certification. After extensive review and deliberation, the FAA has determined that there is no basis for deleting the third-class medical requirements for recreational pilots."[31]

1993 - EAA petitions to allow recreational flyers to self-certify: On September 24, 1993, EAA submitted a Petition for Rulemaking, Docket No. 27517, to the FAA for purpose of allowing individuals who fly recreationally to, in lieu of holding an FAA third-class medical certificate, "self-certify" that he or she has no known medical condition or defect that would make him or her unable to pilot an aircraft safely. On January 3, 1994, the FAA published the EAA petition.[32]

---

[29] Id. at 26288

[30] Certification & Annual Flight Review Requirements for Recreational Pilots, 54 Fed. Reg. 13028 (March 29, 1989).

[31] Id. at 13030

[32] Petition for Rulemaking; Summary of Petitions Received, 59 Fed. Reg. 31 (Jan. 3, 1994).

The comment period for the EAA petition closed on March 4, 1994. There were more than one thousand comments received. The majority of those who commented voiced overwhelming support for the petition.

1993 - AOPA petitions for increased duration of medical certificates to 48 months: Also in September 1993, AOPA petitioned the FAA to extend the duration of a third-class medical certificate to 48 months for noncommercial operations requiring a private or student pilot certificate. This petition was based upon the successful experience in the United Kingdom of a five-year medical certification standard and the extremely low rate of medical incapacitation related accidents in the United States. Then, as now, medical incapacitation by previously undiagnosed pathologies accounted for less than one half of one percent of all general aviation accidents.

1994 - FAA issues a NPRM to revise duration of third-class airman medical certificates: On October 21, 1994, the FAA published a NPRM for the Part 67 revision of airman medical standards and medical certification procedures and amendment of Part 61 to revise the duration of third-class airman medical certificates based on the age of the airman for operations requiring a private, recreational, or student pilot certificate.[33] The FAA proposed to lengthen the validity period of third-class medical certificates for most persons under the age of 40. "Persons under age 40 would be required to undergo a physical examination every 3 years for a third-class medical certificate. Third-class medical certificates for persons age 40 but less than age 70 would continue to be valid for 2 years. Persons age 70 and older would be required to undergo a physical examination every year when applying for a third-class medical certificate."[34]

1996 - The FAA issues a final rule denying AOPA's 1986 and 1993 petitions and increasing duration of third-class medical certificate only for pilots under 40: On March 19, 1996, the FAA issued the final rule for their part 67 rewrite.[35] In preparing the final rule, the FAA reviewed the more than 5,200 comments that were submitted in response to the NPRM. In this final rule, the duration of the third-class medical certificate was changed to 36 months for pilots under the age of 40. The FAA withdrew the proposed shortened duration of third-class medical certificate of airmen older than the age of 70 because of "insufficient data to support the revision."

1995 - FAA issues NPRM incorporating EAA's 1993 requested self-certification for recreational flyers: On August 11, 1995, the FAA issued a notice of proposed rulemaking

---

[33] 59 Fed. Reg. 53226 (Oct. 21, 1994).

[34] Id. at 53230.

[35] Revision of Airman Medical Standards and Certification Procedures and Duration of Medical Certificates, 61 Fed. Reg. 11238 (Mar. 19, 1996).

(NPRM), which incorporated the requested rule change submitted by EAA in 1993. Proposed Flight Instructor, Ground Instructor, and Pilot School Certification Rules, 60 Fed. Reg. 41160 (Aug. 11, 1995). In that NPRM, the FAA proposed allowing pilots who hold recreational pilot certificates and those higher rated pilots who elect only to exercise recreational pilot privileges to operate aircraft without a medical certificate. Specifically, this proposal would have included student pilots seeking a recreational pilot certificate, holders of a recreational pilot certificate, and holders of a higher pilot certificate who elect only to exercise the privileges of a recreational pilot certificate.

The FAA stated, "Since the early 1930s, all pilots, except glider and balloon pilots, have been required to hold medical certificates in order to exercise the privileges of their pilot certificates. The FAA determined that medical certificates were required for the purpose of ensuring the safety of the pilot in command and passengers, and also for the safety of people and property on the ground. As a result of the EAA petition discussed earlier and the interest shown in the general aviation community, the FAA is seeking wider comment on whether recreational pilots and holders of a higher pilot certificate who elect to exercise the privileges of a recreational pilot certificate should be required to hold medical certificates. The FAA is also seeking data on any safety or other public interest concerns that may arise from obviating any review of medical qualifications by medical professionals."[36]

"Pilots applying for a recreational pilot certificate would be required to certify at the time of application that they have no known medical condition or deficiency that makes them unable to operate the aircraft in a safe manner. This requirement parallels the provisions that are now provided to balloon and glider pilots under the current rules. This proposal would prohibit pilots from exercising the privileges of a recreational pilot certificate if they have a known medical condition or deficiency that would make them unable to operate the aircraft in a safe manner or if they are taking any medication or receiving other treatment for a medical condition that would make them unable to operate the aircraft in a safe manner."

"The FAA is not proposing specific medical standards for this pilot self-evaluation but instead are proposing that pilots self-evaluate prior to each flight whether they have any medical conditions that would inhibit their ability to operate the aircraft in a safe manner. The FAA would rely on the pilot's knowledge and judgment as to their medical fitness for conducting each flight. The FAA strongly encourages the public to comment on whether there should be specific medical standards upon which the pilot should base their self-evaluation."

"On November 17, 1994, the National Transportation Safety Board (NTSB) provided the FAA with general aviation accident data involving medical incapacitation since 1982 for balloon and

[36] Id. at 41169.

glider pilots. There have been a total of seven accidents involving balloon and glider pilots since 1982 where a finding was made on medical incapacitation as a cause or factor involved in the accident. Out of those seven accidents, four pilots had valid medical certificates, two pilots had held a medical certificate but the certificates were expired, and only one pilot did not hold a medical certificate."[37]

1997 - FAA issues final rule withdrawing proposed change, noting overwhelming support for eliminating the medical certificate requirement for recreational pilots but indicating intent to conduct additional study with possible future rulemaking: On April 4, 1997, the FAA issued final rule for the 1995 NPRM. Pilot, Flight Instructor, Ground Instructor, and Pilot School Certification Rules, 62 Fed. Reg. 16220 (Apr. 4, 1997). In that rule, the FAA stated "The FAA carefully considered all comments pertaining to the proposal that pilots who hold recreational pilot certificates, student pilots operating within the limitations of a recreational pilot certificate, and those higher-rated pilots who elect to exercise only recreational pilot privileges be permitted to operate an aircraft without holding a medical certificate. Although the FAA acknowledges that most of the comments favored eliminating the third-class medical certificate requirement for such pilots, few of these comments contained supporting data or analysis.... The FAA has determined that additional scrutiny of the proposal is needed to ensure that it would raise or maintain the current level of safety; therefore, the FAA has withdrawn the proposed change from the final rule. The FAA intends to conduct additional study on this proposal and may issue a separate rulemaking action in the future." Id. at 16225.

Mid-1990s - An FAA Aviation Rulemaking Advisory Committee reviews accident summary data and concludes that 0.1 percent of accidents in operations not requiring an airman medical certificate, and 0.05 percent of accidents in operations requiring a certificate, showed a medical cause: An ARAC reviewed accident summary data from 1986 through 1992, that concluded that the percentage of aviation accidents involving medical causal factors is lower for those activities that do not require medical certificates than for those activities that do. During this seven-year timeframe, the ARAC indicates there were 761 accidents in lighter-than-air aircraft and gliders - operations that do not require airman medical certification. Only one of the 761 accidents showed a medical cause, according to ARAC (slightly more than 0.1 of one percent of total accidents). For general aviation operations requiring airman medical certification, ARAC indicates there were 46,976 total accidents, 99 of which (slightly more than one-fifth of one percent) showed a medical cause.

1995 - AOPA Air Safety Foundation study concludes 1.9 percent of general aviation accidents had a contributing medical factor, less than one-third of which were related to non-drug or alcohol health issues: In 1995, the AOPA Air Safety Foundation conducted a comprehensive

[37] Id. at 41170.

analysis of medical casual factors in general aviation accidents. The study showed that during a 10-year period from 1982 to 1991, there were 19,925 general aviation accidents. Of these, only 379 or about 1.9 percent had any medical factors contributing to the accident as determined by the NTSB. A closer look at these 379 accidents shows that well more than two-thirds were caused by the use of alcohol and/or drugs both illicit and prescribed. While most regrettable, there is no way a medical examiner, under any set of regulations or medical standards, can prevent an otherwise healthy pilot from illegally operating an aircraft under the influence. This leaves only 120 medically related accidents during the 10-year period.

The breakdown of these 120 medically related accidents was as follows:

- Eighteen involved pilots who did not hold a medical certificate or had a certificate that was clearly invalid. No change in medical standards or increased thoroughness of an AME exam will prevent these accidents.
- Eight were labeled as medical incapacitations by investigators but the cause was not determined.
- Fifteen were related to hypoxia or carbon monoxide poisoning, which has no connection with the medical certification standards.
- Eighteen were attributable to a variety of medical conditions that did not involve preexisting conditions that could have been detected by the AME at the time of certificate issuance. These included gunshot wounds, motion sickness, cold and flu symptoms, head trauma, upset stomach, and leg cramps.
- Forty-one were reportedly caused by myocardial infarctions (heart attacks). No other medical factor recurred in an accident more than one time per year.
- Two were caused by strokes.
- Four were visual deficiency.
- Eighteen were attributed to "other" organic, cardiovascular, and toxic problems.

2002 - AOPA submits petition to eliminate medical certification requirement for recreational pilots: In January 2002, AOPA submitted a petition for rulemaking to amend the medical certification requirements for operating an aircraft while exercising the privileges of a recreational pilot certificate. AOPA requested that the FAA permit the use of a current and valid U.S. driver's license in lieu of an FAA medical certificate to meet the medical certification requirements of a recreational pilot certificate.

2002 - FAA issues a NPRM proposing self-certification for Sport Pilots: On February 5, 2002, the FAA Issued a Notice of Proposed Rulemaking, proposing to adopt the ARAC's recommendation of self-certification for Sport Pilots.[38] The proposed rule would allow sport pilots to use a driver's license in lieu of an FAA medical certificate.

2002 - FAA denies AOPA's petition as premature while the issue is under consideration for Sport Pilots: On September 13, 2002 the FAA denied AOPA's petition to allow pilots to use a driver's license as a medical certificate to exercise recreational pilot privileges, without an opportunity for public comment. In its denial, the FAA cited other more pressing rulemaking priorities. FAA also stated "It would be premature to actively consider your proposal for Recreational Pilots while the issue is still under consideration for application to Sport Pilots."

2002 - EAA submits petition to allow recreational pilots to fly without the requirement to hold a medical certificate: On September 26, 2002, the EAA petitioned the FAA for an exemption from § 61.23 to permit EAA members holding any pilot certificate to exercise the privileges of a recreational pilot using a current and valid U.S. driver's license instead of an FAA-issued medical certificate.

2003 - FAA denies EAA petition as premature while issue is under consideration for Sport Pilots: On March 3, 2003, the FAA denied EAA's petition stating that "the FAA is currently working on a related rulemaking action for Light Sport pilots that will address issues similar to those raised in this petition for exemption. Therefore, the FAA finds that it would be premature to actively consider a petition for exemption for Recreational pilots while the issue is still under consideration for application to Sport Pilots."

2003 - AOPA submits new petition to exempt recreational pilots from medical certificate, narrower in scope and providing for additional research information: In January 2003, AOPA followed up its denied 2002 request with a new petition for exemption from § 61.3(c) and 61.23(a)(3)(ii) and (iii), which would have allowed members of the association to use a valid and current U. S. driver's license in lieu of an FAA medical certificate when exercising the privileges of a recreational pilot certificate. In the request, AOPA attempted to address FAA concerns from the 2002 proposal stating, "FAA acknowledged that its Sport Pilot proposal and AOPA's Recreational pilot proposal addressed similar issues" but said the AOPA petition was 'premature'. The FAA also stated that it wanted to evaluate the operations of Sport Pilots using a valid driver's license in lieu of a medical before it extended the option to Recreational pilot privileges. In subsequent discussions with the FAA, AOPA learned that one of the FAA's reasons for denying the AOPA petition was that the request was considered to be too broad in

[38] Proposed Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, 67 Fed. Reg. 5368 (Feb. 5, 2002).

scope, in that the FAA feels there is not enough baseline medical data to allow full implementation of a driver's license medical standard for exercising recreational pilot privileges. This Petition for Exemption request seeks to address this FAA concern and establish that baseline medical research information. The information gained from the research obtained through this exemption should allow the FAA to make a decision to allow the use of a driver's license for Recreational pilots."

2003 - FAA denies AOPA's petition as premature while issue is under consideration for Sport Pilots: In March 2003, the FAA responded to AOPA's request for exemption stating, "The FAA has considered fully the petitioner's supporting information and finds that a grant of exemption would not be in the public interest. As the petitioner is aware, the FAA is currently working on a related rulemaking action for Light Sport pilots that will address issues similar to those raised in this petition for exemption. The FAA notes that the comment period for the Light Sport pilot NPRM closed on May 6, 2002. The FAA received more than 2,400 comments for consideration. The rulemaking team is in the process of reviewing the comments and drafting the final rule. Therefore, the FAA finds that it would be premature to actively consider a petition for exemption for recreational pilots while the issue is still under consideration for application to sport pilots. Furthermore, the FAA is not seeking to obtain information, data, or experience beyond what we will get from operations under the Sport Pilot rule (if it goes out in final form authorizing the use of a driver's license in lieu of a medical certificate)."

2004 - FAA issues final rule allowing self-certification for Sport Pilots: On July 27, 2004, the FAA promulgated the sport pilot rule, allowing pilots to exercise the privileges of the sport pilot certificate without an FAA medical certificate.[39] The FAA emphasized the responsibility of pilots to carefully consider their fitness to fly, noting that "no level of airman medical certification will ever alleviate this responsibility." Id. at 44816.

2006 - AOPA again petitions the FAA to allow recreational pilots to operate without the requirement for a medical certificate: In 2006, AOPA again petitioned the FAA to permit medical self-certification for the exercise of Recreational pilot privileges.

2006 - FAA denies AOPA's petition as premature while the issue is under consideration for application to Sport Pilots: In 2006, the FAA again denied AOPA's petition on the basis that "it would be premature to actively consider your proposal for recreational pilots while the issue is still under consideration for application to Sport Pilots."

2007 - FAA issues NPRM to extend duration of medical certificates: On April 10, 2007, the FAA issued a NPRM for the Modification of Certain Medical Standards and Procedures and

[39] Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, 69 Fed. Reg. 44772 (July 27, 2004).

Duration of Certain Medical Certificates.[40] In that NPRM, the FAA stated, "The FAA has not reviewed the medical duration standards since 1996 when it extended the duration of third-class medical certificates from two years to three years for individuals under age 40. The FAA is proposing to further extend certain § 61.23 (d) provisions in order to provide a more reasonable, updated examination timetable for certain medical certificate holders and with a view to more efficiently managing the airman medical certification program overall. Decreasing the frequency of medical examinations by increasing the duration of validity from six months to one year on first-class medical certificates for individuals under age 40 and from 36 months to 60 months on third-class medical certificates for individuals under age 40 would reflect the FAA's assessment of the current, appropriate interval for younger airmen. It also would decrease routine workflow thereby allowing the FAA to focus on the most safety-critical certification cases and provide more efficient service to other applicants waiting to be processed."[41]

2007 - AOPA and EAA comment in support of NPRM and request allowing the use of a driver's license instead of a medical certificate for recreational pilots: AOPA and EAA wrote comments in support of the extension of the medical duration and specifically requested that the FAA consider allowing a U.S. driver's license as medical qualification in lieu of an FAA medical certificate to exercise recreational pilot privileges.

2008 - FAA issues final rule refusing to consider use of a driver's license as medical qualification for recreational pilots: On July 24, 2008, the FAA issued its final rule stating that the requests to allow a U.S. driver's license as medical qualification in lieu of an FAA medical certificate to exercise Recreational pilot privileges is "beyond the scope of the proposal".[42] The FAA went on to state, "The FAA proposal did not address, or propose to amend, standards for recreational pilots other than, for certain pilots, the duration of a third-class medical certificate, required when exercising Recreational pilot privileges… The only pilots currently allowed to medically qualify using a U.S. driver's license are Sport Pilots. The FAA did not find cause during sport pilot rulemaking deliberations, and at this time does not have sufficient experience certificating sport pilots, to reconsider the third-class medical certificate standard for the exercise of Recreational pilot privileges."

2011 - AOPA files a comment in support of a 2009 petition for rulemaking on eliminating the 3rd class medical requirement for aircraft under 6,000 pounds submitted by David Wartofsky, owner of Potomac Airfield in Friendly, Md. In its comment, AOPA stated that the association "has

---

[40] 72 Fed. Reg. 18092 (Apr. 10, 2007).

[41] Id. at 18093.

[42] Modification of Certain Medical Standards and Procedures and Duration of Certain Medical Certificates, 73 Fed. Reg. 43059, 43062.

long supported expansion of the eligible population and kinds of operations that can use a driver's license medical or self-certification as is requested in this petition. AOPA supports the concept [of the Wartofsky petition] and will continue to advocate for an expansion to the driver's license medical standard so that it may apply to pilots exercising the privileges of higher certificate levels. Reducing the economic and regulatory burden to being a pilot would promote the growth of general aviation. This would directly benefit student pilots, pilots, flight instructors and flight schools while indirectly benefiting the aircraft manufacturers, FBOs, airports and the GA community as a whole."

2012 - On Feb. 2, 2012, the FAA denied the 2009 petition by David Wartofsky stating, "Expanding the option of relying on a valid state driver's license in lieu of a third-class airman medical certificate to include private pilots exercising privileges in aircraft whose performance and handling qualities typically are well above current LSA limitations would require complex amendments to FAA aircraft certification, operational, and medical standards that, absent more substantive safety evidence, may prove unwise,"

Appendix D. Economic analysis

Economic Benefits of the Driver's License / Self-Assessment Standard

This proposal would result in substantial economic savings for pilots and the federal government. Utilizing formulas, assumptions, and figures developed for the economic analysis of the FAA modification of certain medical duration standards in 2007, we have calculated that this proposal would generate savings of **$241,929,900** to pilots in a ten year period and savings to the Federal government of more than **$11,530,910** in the same period.

General Assumptions

1. Cost to a pilot for a medical exam is $321 as calculated in a December 2007 regulatory evaluation document for modification of certain medical duration standards ($88 price of medical exam + $116 for travel time + $78 time for the exam + $39 time to fill out form)
2. Paperwork cost for FAA is $25.04 per certificate (30 minutes at blended rate of $50.08)
3. 30 percent of the pilots who are currently issued third-class FAA medical certificates will opt to take part in the requirements called for in petition and not renew their medical certificate
4. 50 percent of pilots issued third-class medicals under special issuance will opt to take part in the requirements called for in petition and not renew their medical certificate

Savings for pilots

The number of third-class medical certificates issued annually is approximately **107,300** (2010).

Not all holders of third-class medicals fly aircraft that fit the limitations or will not want to restrict their operations in order to participate in this proposed exemption, therefore not all holders of a third-class medical certificate would likely forego future applications for a third class medical certificate. A conservative estimate is that 30 percent of holders of third class medicals would take part in the training requirements and limitations called for in this petition and will not renew their medical certificate. Therefore, the total estimated participants in the driver's license / self-assessment medical is **32,190** annually.

Using 32,190 participants and the assumptions listed above, the 10-year total savings ($321 per certificate)[43] equal approximately **$103,329,900** for the pilots participating in the program.

The number of third-class medical certificates issued annually under special issuance is approximately **13,859** (2010).

The cost and burden associated with renewing a special issuance medical certificate varies widely based upon the competency of the AME and the pathology requiring the special issuance. For example, vision standards may be relatively simple to renew, while the requirement to renew a special issuance based on a cardiovascular or neurological condition may prove to be overwhelming in cost and complexity. It is not at all uncommon for these airmen to spend in excess of $1,000 annually to renew their special issuance medical certificate. In fact, AOPA and EAA are aware of instances where the special issuance process has cost individuals more than $3,000, an extraordinary expense to maintain the privilege of flying for recreation or personal transportation.

The average cost of obtaining a special issuance authorization (SI) is $2,000, not factoring in travel time or time off work associated with the testing and administrative process. Often the cost to conduct the required testing to obtain an authorization is borne by the individual pilot alone if not deemed necessary by the personal physicians and covered by medical insurance. For these reasons, we believe that a greater number of pilots currently operating under SI medical certificates will participate in the driver's license/self-assessment standard. Assuming that 50 percent of this group (6,930 pilots) would participate in the driver's license/self-assessment medical standard, the savings to pilots would total $13,860,000 annually or **$138,600,000** over 10 years.

Total savings for pilots over 10 years is conservatively estimated at **$241,929,900.**

FAA, AME, CAMI officers, CAMI physicians, et cetera.

Again, utilizing formulas developed for the economic analysis for the FAA modification of certain medical duration standards in 2007, each employee will spend approximately 30 minutes to review the medical applications. Estimated blended wage of $50.08 for the cost of time of employees that will review the medical[44].

For the 32,190 fewer third-class medicals processed annually, the FAA will save $806,037 annually.

---

[4] 21 = 88 price of edical exa (2006) + 116 for travel ti e + 78 ti e for the exa + 9 ti e to fill out for . From the FAA's 2007 economic evaluation to support the "Modification of Certain Medical Duration Standards and Authority Dele ated to Select Desi nees" Final Rule

[44] Assu ptions per Re ulatory evaluation for odification of certain edical duration standards NPRM

Special issuances require more time for approval. A conservative estimate is that the approval time for special issuances is 60 minutes. Estimated blended wage is $50.08 for the cost of time of employees that will review the medical[45].

With an estimated 6,930 fewer special issuances annually, the FAA could save an additional $347,054 annually.

Total estimated savings in paperwork for FAA, AME, CAMI officers, and CAMI physicians is $1,153,091 annually or **$11,530,910** over 10 years.

[45] Assu ptions per Re ulatory evaluation for odification of certain edical duration standards NPRM

Appendix E. GAMA Letter for Estimation of Affected Aircraft

February 6, 2012

Kristine Hartzell
Manager, Regulatory Affairs
Aircraft Owners and Pilots Association (AOPA)
421 Aviation Way
Frederick, Maryland 21701

Dear Ms. Hartzell:

The General Aviation Manufacturers Association (GAMA) has completed the analysis you requested about the portion of currently registered aircraft that would qualify for use by a pilot that exercises recreational pilot privileges.

As you stated, AOPA – in coordination with the Experimental Aircraft Association (EAA) – intend to file a petition to exempt pilots from having to hold a medical certificate if that pilot self-certifies their compliance with the medical requirements for operating an aircraft; takes an education course that identifies medical conditions that are unsafe for flight; and operates an aircraft that meets the criteria in 14 CFR Part 61.101(e), including airplanes that have four seats or less; one power plant; 180 horse power or less; and has fixed gear.

GAMA has reviewed in detail the airplanes that are currently listed as registered on the Federal Aviation Administration (FAA) Aircraft Registry and meet the criteria above.

Our analysis started with the 189,454 aircraft on the Aircraft Registry identified in the report titled *Aviation Fuels Research Reciprocating Engine Aircraft Fleet Fuel Distribution Report* (DOT/FAA/AR-TN11/22) that was developed for the Unleaded Avgas Transition Aviation Rulemaking Committee (UAT ARC). Our analysis was limited to 97.9 percent of the registered aircraft identified by the UAT ARC which covers 45 different manufacturers. The remaining two percent of the registry cover hundreds of additional manufacturers.

The detailed analysis identified **114,333 airplanes** including 49,407 manufactured by Cessna Aircraft Company; 37,244 manufactured by Piper Aircraft, Inc.; 6,035 manufactured by Aeronautical Corporation of America (that is, Aeronca); 2,521 manufactured by Bellanca (and its affiliated manufacturers); 2,382 by Stinson; 2,329 by Beechcraft; and 2,198 aircraft manufactured by Taylorcraft that meet the criteria that you identified. We did not look at special light sport aircraft since they are already covered by a medical exemption similar to the one you propose. You will find the detailed overview attached to this letter.

You should also note that we did not consider the "active fleet" criteria established by the FAA. According to the FAA's most recent general aviation survey for 2010, approximately 75.8 percent of the single engine piston fleet is "active". (The survey also says that 61.5 percent of 1-3 seat piston single engine airplanes and 82.9 percent of the 4+ seat single engine airplanes are considered active.) Based on these figures, it is fair to assume that approximately **86,664 active single engine piston airplanes** could be operated by a pilot that is exercising recreational pilot privileges.

General Aviation Manufacturers Association
www.GAMA.aero
HEADQUARTERS 1400 K Street NW | Suite 801 | Washington, DC 20005 USA | +1 202 393 1500 MAIN | +1 202 842 4063 FAX
EUROPEAN OFFICE Rond Point Schuman 6 | B-1040 Bruxelles Belgium | +32 (0) 2 234 77 09 MAIN | +32 (0) 2 234 79 11 FAX

GAMA is encouraged by your petition that would better target medical certification for general aviation pilots and at the same time expand the general aviation community's understanding of the safety implications of flying with a medical impairment, taking over-the-counter medicine, or other medical conditions that may impede the safe operation of the aircraft.

As was learned from the General Aviation Joint Steering Committee's (GAJSC) ongoing review of loss of control accidents, medical conditions, use of over-the-counter medicine and lack of understanding of the implications of poor health are common factors among pilots involved in fatal general aviation accidents. While the GAJSC has yet to draw a clear conclusion about the implications of poor health and use of certain drugs on general aviation safety, GAMA believes that better education of pilots can only help with enhancing safety.

Please contact me with any questions about how the analysis was conducted.

Regards,

Jens C. Hennig
Vice President of Operations

ATTACHMENT

Analysis of 14 CFR 61.101 (e) criteria

Conclusion from analysis need to understand 185,542 (97.9%) aircraft of the 189,454 identified as potentially 61.101:

- 12 manufacturers require no additional analysis since all aircraft outside 61.101 (see Column E through H "Yes")
- 27 manufacturers require additional analysis (see Column J "Yes")
- 6 manufacturers require no additional analysis since all aircraft within 61.101 (see Column I "Yes")

Mfr's Code	Number of Aircraft	Rank	Manufacturer's Name							Registered number of aircraft that currently (January 2012) meets 61.101	#
207	74,258	1	Cessna/Inland Valley Avia	No	No	No	No	No	Yes		49,407	a
710	46,030	2	Piper Aircraft, Inc.	No	No	No	No	No	Yes		37,244	b
115	17,209	3	Beech-Parks	No	No	No	No	No	Yes		2,329	c
587	6,764	4	Mooney Mite Aircraft Corp.	No	Yes	No	No	No	No	6,764	-	
211	4,107	5	Aeronca (Aeronautical Corp. of Am.)	No	No	No	No	No	Yes		6,025	d
213	3,383	6	Cirrus Design Corp.	Yes	No	No	No	No	No	3,383	-	
122	2,501	7	Bellanca	No	No	No	No	No	Yes		2,521	t
923	2,280	8	Universal	No	No	No	No	No	Yes		316	e
764	2,249	9	Robinson Helicopter Co.	No	No	Yes	No	No	No	2,249	-	
885	2,196	10	Taylorcraft	No	No	No	No	Yes	No		2,198	
819	1,818	11	Silvaire	No	No	No	No	Yes	No		1,818	
42	1,757	12	ERCO (Engineering Research Co.)	No	No	No	No	Yes	No		1,757	
396	1,747	13	Grumman American Aviation Corp.	No	No	No	No	No	Yes		2,016	f
19	1,693	14	Aeronca (Aeronautical Corp. of Am.)	No	No	No	No	No	Yes			d - above
60	1,417	15	Six Chuter, Inc.	No	No	No	Yes	No	No		-	
138	1,164	16	Boeing/Stiles R	No	No	No	No	No	Yes		-	g
299	1,143	17	Diamond Aircraft Industries, Inc.	No	No	No	No	No	Yes		1,108	h
615	1,012	18	Ryan (see No. 783)	No	No	No	No	Yes	No		1,012	
546	1,005	19	Maule	No	No	No	No	No	Yes		412	i
14	908	20	Aero Commander	No	No	No	No	No	Yes		299	j
221	865	21	Aviat, Inc.	No	No	No	No	No	Yes		639	k
63	619	22	American (Aviation, Tiger, Bede)	No	No	No	No	No	Yes		929	l
212	619	23	American Champion Aircraft	No	No	No	No	No	No		619	n
715	568	24	Raytheon Aircraft Company	Yes	Yes	No	No	No	No	568	-	
640	553	25	North American	Yes	Yes	No	No	No	No		-	
515	521	26	Columbia Aircraft Mfg	Yes	No	No	No	No	No	521	-	
337	518	27	Fairchild	No	No	No	No	No	Yes		472	m
960	517	28	Waco	Yes	No	No	No	No	No	517	-	
763	464	29	Rockwell International	No	No	No	No	No	Yes		-	o
863	458	30	Stinson (also see Universal)	No	No	No	No	No	Yes		2,383	p
308	385	31	Downer (was and became Bellanca)	No	No	No	No	No	Yes		-	
290	381	32	De Havilland and De Havilland Canada	No	No	No	No	No	Yes		238	r
868	355	33	Socata Group Aerospatiale	No	No	No	No	No	Yes		158	s
805	329	34	Schweizer	No	No	Yes	No	No	No	329	-	
397	321	35	Gulfstream-Schweizer A/C Corp.	No	No	Yes	No	No	No	321	-	
118	302	36	Bell	No	No	Yes	No	No	No	302	-	
330	283	37	Enstrom Helicopter Corp.	No	No	Yes	No	No	No	283	-	
302	256	38	Douglas	Yes	Yes	Yes	Yes	No	No	256	-	
447	254	39	Hughes-Filipoff	No	No	Yes	No	No	No	254	-	
56	244	40	Martin Edwin W	No	No	No	Yes	No	No		-	
511	230	41	Aerofab, Inc. (Lake Aircraft)	Yes	No	No	No	No	No	230	-	
836	225	42	Smith (Aerostar owner)	Yes	No	No	No	No	No	225	-	
547	219	43	Maule	No	No	No	No	No	Yes			i - above
702	199	44	Extra Flugzeugproduktions-Und	Yes	No	No	No	No	Yes	199	-	
120	196	45	Bellanca	No	Yes	No	No	No	Yes	196	-	
54	182	46	Alon	No	No	No	No	Yes	No		182	
240	175	47	Consolidated Aeronautics (Lake)	Yes	No	No	No	No	No	175	-	
436	171	48	Hiller-Osborn	No	No	Yes	No	No	No	171	-	
262	170	49	Travel Air	No	No	No	No	No	Yes		89	w
783	162	50	Ryan	No	No	No	No	Yes	No		162	
422	158	51	Hawker Beechcraft Corp.	Yes	Yes	No	No	No	No	158	-	
TOTAL	185,542		TOTAL NUMBER OF REGISTERED AIRCRAFT MEETING 14 CFR 61.101 OPERATIONS								114,333	
			TOTAL NUMBER OF REGISTERED AIRCRAFT THAT DO NOT MEET 14 CFR 61.101 OPERATIONS								71,209	

AIRCRAFT OWNERS AND PILOTS ASSOCIATION
421 Aviation Way • Frederick, MD 21701-4798
Telephone (301) 695-2000 • Fax (301) 695-2375
www.aopa.org

December 4, 2007

Border Security Regulations Branch
Office of International Trade
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW, (Mint Annex)
Washington, DC 20229

Re: USCBP-2007-0064 Advance Information on Private Aircraft Arriving and Departing the United States

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization of more than 414,000 pilots. Representing two thirds of all pilots in the United States, AOPA is the largest civil aviation organization in the world. In developing these comments, AOPA has conducted extensive research of our members that fly internationally from several studies that are cited in our comments. Specifically, to respond to this proposed rule, AOPA undertook a statistically valid survey of its pilot members. We received 1,171 responses and 95 percent have used a general aviation aircraft to fly internationally in the last two years.

On September 12, 2007, Customs and Border Protection (CBP) issued a notice of proposed rulemaking (NPRM) that expands on existing, and imposes new notification requirements for general aviation aircraft arriving and departing the U.S.

Contrary to earlier discussions with general aviation stakeholders, the proposed rule far exceeds the simple requirement to provide passenger manifests to CBP prior to entering the United States. AOPA understands and recognizes the need for effective security procedures for international flights, however we have serious concerns about the proposed procedures. We strongly oppose the electronic transmission mandate in the proposed rule and have identified significant problems with a number of the other requirements. Instituting impossible to meet procedures, such as the electronic filing for aircraft departing from international areas (arrival notification) where the Internet is unavailable is not advancing security and makes no sense.

The proposed rule is operationally unworkable, will have a significant negative impact on international air transportation, and adversely affect the United States economy, as well as many other neighboring countries. In fact, 68 percent of AOPA members responding to our survey indicated the proposed rule would cause them to fly internationally less often.

General Aviation is an Important Part of the Air Transportation System
General aviation includes all flying except for military and scheduled airline operations.

The typical general aviation aircraft (70 percent of all aircraft) is a four-seat, single-engine aircraft that operates at about twice the speed of a car (120 mph), has an average maximum weight of 2,300 pounds, carries 40 gallons of fuel, and has a useful load (after full fuel) for people and baggage of approximately 500 pounds. A Cessna 172 is a good example having less size and weight than a typical compact car, like the Honda Civic, which weighs around 2,600 pounds.

General aviation is an integral part of the U.S. economy making up more than 1 percent of the U.S. gross domestic product, supporting 1.3 million high-skill jobs and more than $102 billion of total annual economic activity. General aviation is a diverse industry with the types of operations varying greatly and being separate and distinct from those of commercial operations. General aviation pilots are not carrying passengers for compensation and in many cases have limited access to resources and support facilities when traveling internationally.

International general aviation flights range from the individual pilot flying family and friends across the border for short vacations to the corporate aircraft traveling on business flights. In our survey, 84 percent of the respondents indicated they usually fly with family or friends when traveling internationally, and only 5 percent fly with anyone other than themselves, friends, family members or business acquaintances. Nearly two-thirds (64 percent) fly with only one or two passengers when not flying by themselves. And, 88 percent of respondents said they fly piston powered (not turboprop or jet) aircraft when making international flights with 71 percent flying single-engine aircraft.

Risk-Based Approach to General Aviation Security – the Final Rule Should Not Cover Light Aircraft
AOPA supports the Department of Homeland Security's promise to use a threat-based, risk management and consequence analysis approach to security. In fact, we commend the Department's recognition that a "one size fits all" approach to general aviation security does not work. Current regulations and policy documents differentiate between aircraft size and weight -- with more stringent rules for aircraft with a maximum certified gross takeoff weight of 12,500 pounds or more. As such, AOPA questions why the Department has abandoned that approach with this proposed rule.

The Government Accountability Office has concluded that "the small size, lack of fuel capacity, and minimal destructive power of most general aviation aircraft make them unattractive to terrorists and, thereby, reduce the possibility of threat associated with their misuse."

In recent public statements about general aviation security, Secretary Chertoff has expressed the Department's policy of using a risk-based approach to security that does

not unduly burden general aviation or impede the "fluidity" of the industry. Secretary Chertoff has also focused on corporate jets, as distinguished from light aircraft, when describing the need for this proposed rule in recent discussions with industry and the media. AOPA supports the distinction between jets and light aircraft under current policy and strongly believes, at a minimum, that aircraft weighing 12,500 pounds or less should be excluded from this proposed rule.

General aviation security is a responsibility taken seriously by AOPA and its members. To augment federal security requirements and ensure that pilots understand the active role they must play in securing their aircraft and airports, AOPA partnered with the Transportation Security Administration in 2003 to create the Airport Watch Program. Airport Watch uses the resources of more than 600,000 pilots and aviation professionals to watch for and report suspicious activity. This network is encouraged to "lock up their aircraft" and "look out" for any irregularities that may have security implications. A toll-free hotline answered by the TSA's Transportation Security Operations Center is the centerpiece of this partnership. AOPA has actively *promoted and funded* the Airport Watch Program because we believe that security is every pilot's responsibility.

Current Rules and Procedures for "Light" General Aviation Aircraft Arriving in the United States are Adequate

General aviation aircraft are required to give advance notice of arrival to CBP before returning to the United States and to file a flight plan with the Federal Aviation Administration (FAA). The notice of arrival is provided directly to the CBP Port Director at the place of first landing by radio, telephone, or by an ADCUS (ADvise CUStoms) message in the FAA flight plan. The advance notice of arrival must include, the type of aircraft and registration number or marks of nationality, pilot's name, foreign point of departure, airport of arrival, number of passengers that are U.S. citizens, number of alien passengers, and estimated time of arrival. Southern border arrivals are required to provide a minimum of one-hour advance notice prior to border or coastline crossing. Northern border crossings are only required to give CBP enough notice to allow officers to meet the aircraft. By CBP procedures and polices outlined in The Guide to Private Flyers, a minimum of one-hour is the norm, although at some airports the advanced notice is longer.

In addition to the CBP requirements, general aviation aircraft must file an FAA flight plan and be in communication with air traffic control when crossing the border. Flight plans include information about the type of aircraft, pilot and contact information. Northern border crossings need only be a visual flight rules (VFR) or instrument flight rules (IFR) flight plan while Southern border crossings must be a Defense VFR (DVFR) or IFR flight plan for Air Defense Identification Zone (ADIZ) penetration. FAA requires that the ADIZ penetration be either on time, or no more than plus or minus five minutes from the time of intended ADIZ penetration.

General aviation aircraft are required to make their first landing at a CBP Airport of Entry. Here, the pilot meets face-to-face with a CBP representative and completes the *Private Aircraft Enforcement System Arrival Report* (CBP Form 178) which requires specific passenger information. In addition, all travel documents are provided for inspection. Operationally, aircraft must arrive within 15 minutes of the time they gave customs for their arrival at some airports of entry. If requested by CBP, the pilot must also produce for inspection a valid pilot's certificate or license, a medical certificate and the aircraft registration.

The Western Hemisphere Travel Initiative (WHTI) also requires all travelers to have a valid, unexpired passport or other valid DHS approved travel document when arriving by air from anywhere in the world. This includes general aviation arriving from Canada, Mexico, adjacent islands in the Caribbean Sea, and or South and Central America.

Electronic Only Submission Unworkable - Alternatives Needed
The proposed rule changes the method by which general aviation pilots transmit information to CBP. Currently, private pilots transmit arrival information and other relevant data to CBP via radio, telephone or through FAA flight notification procedure. Under the proposed rule, pilots will be required to electronically transmit the notice of arrival/departure and passenger manifest data to CBP. Electronic transmission can be made through the Electronic Advance Passenger Information System (eAPIS) Web portal or by a CBP approved alternative transmission medium. CBP states in the proposal that it assumes "pilots will have access to a computer and Internet access to make the electronic transmission." However, this is not the case.

General aviation pilots often operate from remote and rural areas where it is difficult to find a working telephone much less a working computer with Internet access. This is true in parts of Canada, Mexico, the Bahamas, various Caribbean nations, as well as parts of the United States. Sixty-three percent of pilots reported that the Internet is not available from any of their international departure locations. For many of these locations, CBP notification can only be done once the pilot is airborne, reaches a certain altitude and is able to contact air traffic control. While electronic transmissions are used for charter and commercial operations, they are not realistic or workable for general aviation. In addition, the volume of required data to be transmitted (social security numbers, dates of birth, etc.) not only raises privacy issues but also poses a tremendous chance for error.

In situations where departure is from a location without electronic service, CBP's solution in the proposed rule is for the pilot to fly to a different location where they will have access to a computer and the Internet. This would be unduly burdensome and extremely costly for general aviation. This could mean additional extended flights over water and in some instances (i.e., in the Caribbean) stops in additional foreign countries.

General aviation flights face numerous factors including weather, lack of reliable fuel sources, air traffic control delays, and slow local customs clearance departure that can impact operations. Many of these situations occur at the last minute and during flight. With no method of updating CBP while in flight, pilots will be forced to weigh safety against the potential for monetary fines levied by CBP. Seventy-five percent of respondents to the AOPA survey who fly internationally reported having to update their arrival time in flight or just prior to their departure.

CBP must continue to allow general aviation pilots to transmit the requisite information via radio, telephone or through FAA flight notification procedures in addition to any new electronic system. These non-electronic methods provide CBP with ample opportunity for the proper vetting of passengers before flight without seriously impacting the flexibility and fluidity, economics, and safety of general aviation operations. This issue is absolutely crucial for the arrival notification.

No Security Rationale for New U.S. Departure Procedures

While there are currently no CBP requirements for general aviation aircraft departing the United States, the government imposes specific notification procedures through the FAA. General aviation aircraft departing the United States must file an FAA flight plan and be in communication with air traffic control when crossing the borders. Additionally, general aviation aircraft are responsible for complying with the arrival and notification procedures at the foreign country.

The proposed rule would require that general aviation aircraft obtain clearance from CBP prior to departing from the United States. To obtain the clearance, general aviation pilots will be required to electronically submit a notice of departure and passenger manifest no later than 60 minutes prior to departure.

AOPA questions the security benefit of this new requirement and therefore asserts that it is not needed. Eighty-nine percent of AOPA members objected to this requirement in the survey of pilots that fly internationally. This requirement places a burden on general aviation operations, especially those of light aircraft, without adequate justification. We recommend that it be dropped from the final rule, or at a minimum that the requirement not apply to light aircraft under 12,500 pounds.

DHS Must Provide Name(s) and Procedures for Passengers On No-Fly List

Responding to a question raised in the proposed rule, AOPA strongly believes that DHS must give the pilot the name(s) of passengers who are identified on the no-fly list in the event landing rights are restricted or denied. This gives the pilot and passenger(s) an opportunity to pursue redress. It also allows the pilot to remove the passenger(s), resubmit an updated manifest and obtain clearance to make the flight mitigating any delays. Without knowing which passenger(s) appeared on the no-fly list, pilots would be forced to play a guessing game by providing multiple submissions to CBP and waiting for approval/disapproval further delaying the flight.

Currently, DHS provides the Traveler Redress Inquiry Program (TRIP) to process commercial travelers that find themselves on the no-fly list. The proposed rule is silent on what redress procedures will apply to a general aviation pilot/passenger whose name appears on the no-fly lists. AOPA is also concerned that the TRIP process is not functioning smoothly which could lead to significant delays in clearing names preventing those impacted from traveling internationally.

Other Concerns/Recommendations

- **Clarify Timeframe for Advance Submission of Passenger Information**
  The proposed rule does not provide a maximum time for pilots to submit the required passenger information in advance of a flight. Establishing a maximum time for submission of this information is important. AOPA believes that allowing the submission of the information days, weeks or months prior to departure would give pilots the opportunity to submit their passenger manifests while still in the United States thus mitigating the issues of electronic access while outside the United States. AOPA recommends allowing for a maximum of 90 days for the advanced filing of passenger information. In implementing this recommendation, the arrival notification could then be provided via the methods discussed above, including non-electronic means.

- **CBP Form 178 Should Be Eliminated**
  Under the proposed rule, the information currently provided on *Private Aircraft Enforcement System Arrival Report (CBP Form 178)* will have already been given to CBP one hour prior to departure. Thus, Form 178 is redundant and elimination of this form will expedite the arrival process.

- **Aircraft Should Not Be Delayed Once CBP Clearance Received**
  The proposed rule requires the requisite information be transmitted to CBP at least 60 minutes prior to departure. However, it is unclear whether a pilot may depart as soon as he/she receives clearance from CBP (i.e., if clearance is given 15 minutes after the information is submitted). The rule must clearly state that a pilot may depart as soon as CBP clearance is provided.

- **Role of FAA's Flight Service Station (FSS) System Has Been Ignored and Could Expand**
  In early conversations with DHS prior to the rulemaking, AOPA recommended evaluating how the FAA's FSS system could be incorporated in the arrival notification procedures. This network of weather and safety information facilities has recently been modernized through a contract between the FAA and Lockheed Martin. Pilots use the services for weather briefings and to file flight plans for operations in the United States and internationally. FSS is familiar with interfacing

between FAA air traffic control facilities and CBP, and could be an important resource for CBP procedures.

- **CBP Should Consider FAA's New Surveillance Technology -- Automatic Dependent Surveillance-Broadcast (ADS-B)**
  In September 2007, the FAA issued a proposed rule that would require all aircraft to equip with ADS-B by 2020 in order to fly within Class B and C airspace and above 10,000 feet. ADS-B is datalink technology that uses satellite-based navigation equipment located on board aircraft and positioning information from GPS satellites to automatically transmit aircraft location and altitude to air traffic controllers and other nearby aircraft.

  The FAA plans to use ADS-B as the primary means of surveillance to replace air traffic control radar over the next 10 to 15 years. ADS-B could also be used to provide real time information of an aircraft's identification number, position, speed, and direction to others including those responsible for national and border security.

Issues with Specific Expanded Data Elements

- *Decal Number: Should be modified to "If Available."* Under the CBP Decal Program decals may be purchased at the Port of Entry. An aircraft, that has not yet purchased its decal, will not be able to enter a Decal Number.

- *Transponder code (beacon number): The requirement should be deleted.* In the United States, a clearance and transponder code is not issued until the pilot contacts air traffic control for departure. This is done just prior to the flight, generally with the engines running and all passengers on board. And, if the aircraft is operating under visual flight rules, a transponder code is generally not issued until such time as the pilot actually contacts air traffic control (usually when airborne). Thus, the transponder code is not available for submission to CBP 60 minutes prior to departure. Also, air traffic control has the option of changing an aircraft's transponder code in flight.

- *24-hour Point of Contact (e.g., broker, dispatcher, repair shop) name and phone number): Should be modified to "If Available."* For the vast majority of privately owned aircraft there is no 24-hour point of contact while the aircraft is in flight. These aircraft are not operating with the support of large dispatch or flight facilities. The 24-hour point of contact is the person flying the aircraft.

Summary

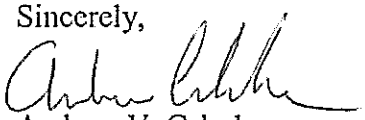
While the premise of the proposed rule has merit, some of the requirements will severely impede the ability of general aviation to fly internationally, negatively impact commerce, and create safety hazards for pilots. The proposed rule, if finalized, would be a dramatic departure from the Department's risk-based approach to security.

Electronic filing, as opposed to transmitting manifest information by phone or radio, does nothing to enhance security. It does not mitigate any threat, vulnerability, or consequence. It is merely shifting a burden from the government to an industry that is ill equipped to bear it. The proposed rule expects the general aviation industry to fly miles (many times hundreds of miles) out of their way sometimes in opposite directions to airports in other towns, cities, or countries to file electronically *even though* CBP could obtain the same information by radio or phone within timelines that allow it to perform risk assessments on passengers.

CBP can and should provide simple alternatives that would allow it to obtain sufficient and timely information without creating an extraordinary burden on pilots and passengers on private aircraft. The proposed rule, as written, places an incredibly large and wholly unnecessary burden on general aviation that will result negligible security benefit. This is inconsistent with DHS's risk-based philosophy.

As with the Airport Watch Program and other partnership security measures, AOPA looks forward to working with DHS and CBP to find practical and workable alternatives to enhance security that do not unduly restrict general aviation operations.

Sincerely,



Andrew V. Cebula
Executive Vice President
Government Affairs

AOPA EAA THE SPIRIT OF AVIATION NASAO National Association of State Aviation Officials NATA National Air Transportation Association The Voice of Aviation Business NBAA

May 19, 2009

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano:

The trade associations listed below represent the vast majority of the non-airline (general aviation or GA) aircraft operators and aircraft services providers in the United States. Our group seeks your involvement in an issue of great concern for our members and the general aviation community.

On December 10, 2008, the Transportation Security Administration (TSA) issued Security Directive 1542-04-08F (SD 08F) that changed the procedures for the issuance of airport identification media and increased the base of individuals who would be required to hold media at airports regulated by 49 CFR 1542. Although the security directive is classified as Sensitive Security Information, many of its requirements have become public knowledge through the implementation process at affected airports and the TSA has discussed other aspects of the directive in meetings with industry trade associations. Some publicly known highlights of the directive include:

- Airports regulated by 49 CFR 1542 are required to ensure that any individuals with unescorted access to the airport operating area hold airport issued identification media.
- All applicants for airport-issued identification media must undergo a Security Threat Assessment by the TSA

Because these regulatory changes were issued as a security directive, they did not benefit from the comments of industry experts, possible affected parties and concerned citizens as would other regulatory changes promulgated under the federal rulemaking process. The changes do not take into account the unique nature of general aviation operations, and therefore may present serious issues to regulated airport operators.

General aviation operations such as private flights by individuals, air charter operations and business aviation flights do not occur on a regular schedule and often involve last-minute itinerary changes. Since many of these operations may occur during hours when airport or airport tenant staff is unavailable to act as escorts, operators may be unable to access their aircraft. To overcome this obstacle created by the requirements promulgated by SD 08F, aircraft operators would be required to apply for and receive airport identification media from every 49 CFR 1542 regulated airport that they may ever need to visit. Even if an operator only anticipated ever needing to visit half of those facilities, the administrative burden would overwhelm

operators needing to apply for and receive airport-issued media for the operator's entire flight staff.

To date, the TSA's only response to this concern is that the issue should be brought to the individual airport operator, since they are the "regulated party" so they may develop "alternate means" and submit them to the TSA. This would require each regulated airport operator to develop their own method of dealing with problems in implementing SD 08F, and the resulting patchwork of "alternate means" would likely create far more problems than it would solve. Some airport operators may, in an attempt to avoid the administrative burden, choose to limit GA access to their airports, which could put the airport operator in violation of federal grant assurances[1] that require airports receiving federal funds to be open to the public.

Many of the problems with the regulatory changes in SD 08F could have been avoided had the TSA chosen to implement them using the federal rulemaking process allowing those most familiar with the intricacies of general aviation operations to provide their comments. Because of the seriousness of the aforementioned issues, we would like to see TSA withdraw SD 08F and initiate the required rulemaking process to implement a change of this scope. Our group understands the need to secure America's airports and stands ready to participate fully with the TSA in developing sensible security regulations that will prevent unauthorized access to aircraft and airport facilities.

Sincerely,

Craig Fuller
President
Aircraft Owners & Pilots Association

Tom Poberezney
President
Experimental Aircraft Association

Henry Ogrodzinski
President
National Association of State Aviation Officials

James K. Coyne
President
National Air Transportation Association

Ed Bolen
President & CEO
National Business Aviation Association

[1] 49 U.S.C. 47107 and 14 CFR Parts 150 - 169

421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

May 28, 2008

Docket Operations, M-30
U.S. Department of Transportation
1200 New Jersey Avenue, SE, Rm. W12-410
Washington, DC 20590-0001

RE: Docket No. FAA-2008-0188 Re-Registration and Renewal of Aircraft Registration

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization of more than 415,000 pilots. Representing two thirds of all pilots in the United States, AOPA is the largest civil aviation organization in the world. Our mission is to effectively serve the interests of members as pilots or aircraft owners to establish, maintain, and articulate positions of leadership to promote the economy, safety, utility, and popularity of flight in general aviation aircraft.

On February 28, 2008, the Federal Aviation Administration (FAA) issued a notice of proposed rulemaking (NPRM) titled "Re-Registration and Renewal of Aircraft Registration." According to the FAA, the NPRM is based on the need to increase and maintain the accuracy of aircraft registration information in the Civil Aviation Registry. Specifically, the NPRM proposes replacing the existing one-time non-expiring aircraft registration with a new three-year expiring registration. As part of the implementation, owners of currently registered aircraft would have to re-register their aircraft with the FAA.

AOPA Supports Improving Accuracy of Registry – But Not the FAA's Plan for Doing So

Although AOPA supports the FAA's goal of improving the accuracy of the Aircraft Registry, the Association objects to the procedures proposed by the FAA. AOPA has developed an alternative that is a simpler approach to meeting the Agency's goal using a process that is less burdensome for aircraft owners. AOPA's members have made it clear in a recent survey that they object to increased burdens placed on aircraft owners under the FAA proposal to improve the accuracy of the Aircraft Registry that the FAA allowed to degrade over time.

Specifically, AOPA opposes the elements of the FAA's proposed plan that requires:

- All aircraft owners to convert to three-year expiring registrations.
- The re-registering of all currently registered aircraft to an expiring registration system.
- The cancellation of any aircraft registration numbers (N-numbers) for aircraft not re-registered with the FAA within the specified timeframe.

It is also imperative that there is no increase in registration fees or unnecessary administrative burdens on aircraft owners related to the FAA's efforts to update its registry. Aircraft owners are very concerned with the cost of operation as they face unprecedented costs for fuel and other expenses related to owning and operating aircraft.

Background: FAA's Current Aircraft Registration Requirements

14 CFR Part 47 entitled "Aircraft Registration" lists the requirements for aircraft registration. Part 47 states that an aircraft may not be operated unless it is properly registered, and the registration certificate (or other authorizing documentation) is onboard the aircraft while it is being operated. Under the current requirements, the aircraft registration certificate issued by the FAA has no expiration date and is valid until it is suspended or revoked by the FAA; or until the aircraft is sold, destroyed, scrapped or the registration is voluntarily cancelled by the owner. Aircraft owners are also required to notify the FAA of any "reportable" change to their aircraft registration, (change of address, request for a duplicate registration certificate, or application for a change of N-number).

As part of the process for maintaining the database of aircraft, the FAA requires owners who have had no reportable changes to complete the FAA's Triennial Aircraft Registration Report (AC Form 8050-73) if sent to them by the FAA. According to the NPRM, the FAA sends 70,000 Triennial Aircraft Registration Reports annually resulting in 9,000 address changes and 5,000 aircraft with undeliverable addresses.

FAA's Proposed New Requirements and AOPA's Response and Alternative Recommendations

The FAA proposal replaces existing aircraft registrations that do not expire with ones that would expire after three years and require renewal every three years. Aircraft owners that do not renew or re-register their aircraft in the time specified by the FAA could be denied access to the National Airspace System or lose their registration number.

AOPA is opposed to many elements of the FAA's proposed plan and has suggested an alternate plan that would improve the accuracy of the registry's data while removing many of the objectionable elements of the FAA's plan. AOPA is proposing an alternative plan that:

- Does not require expiring registrations.
- Allows aircraft owners to verify registry information online or through the existing Triennial Aircraft Registration Report every three years.
- Does not "administratively" cancel N-numbers if aircraft owners fail to re-register or renew on time.

Existing Aircraft Registrations

FAA Proposes: The FAA is proposing to require owners of all 343,000 aircraft currently listed in the Aircraft Registry to re-register the aircraft. To implement the new requirements, the FAA is proposing to spread the re-registration over a three-year period. Aircraft owners will be given one-three month window and will not be allowed to re-register early or late. After the owner completes the re-registration requirements, the aircraft will be issued an expiring registration that must be renewed every three years. If an aircraft registration expires, the N-number will be administratively canceled and the aircraft is not permitted access to the National Airspace System.

AOPA Response: *AOPA opposes the FAA's proposed requirement to re-register all aircraft currently in the FAA's Aircraft Registry and replace the current non-expiring aircraft registration with one that would expire after three years.*

Instead, AOPA recommends that an aircraft's registration not expire and that the FAA require verification for all aircraft in the FAA Aircraft Registry within 36 months. This could be accomplished by the FAA's developing a system that allows aircraft owners the ability to access the FAA's Aircraft Registry online and update or verify the accuracy of the information. Using the Internet is simple, little or no cost to the government and is convenient for the aircraft owner. A record of this activity would then be included in the aircraft's history in the FAA's Aircraft Registry.

If appropriate, the online system could include a printable report or receipt of this activity that aircraft owners could keep as part of their records. Similar systems are already in place and used by the FAA's Airman Registry, Aero Medical, and for the dissemination of airworthiness directives. The FAA must also provide a non-electronic option for the verification of FAA's Aircraft Registry information.

New Aircraft Registrations
FAA Proposes: Any new aircraft registrations occurring after the rule goes into effect will be issued with a three-year expiration date, after which the aircraft owner would have to renew the aircraft registration or it would expire.

AOPA Response: *AOPA opposes the expiration of aircraft registration certificates.*

As an alternative, AOPA proposes that aircraft registrations issued after the final rule takes effect would follow the same registration process used today and would be issued a *non-expiring aircraft* registration. Following the initial registration, aircraft owners would verify the registration information every three years as outlined in the previous section.

After "Re-registration" Requirements Are Fully Implemented
FAA Proposes: After the initial re-registration of all existing aircraft in the FAA's Aircraft Registry, the FAA is proposing that one hundred twenty (120) days prior to the aircraft registration expiration date, the Agency will notify the aircraft owner that they must renew their registration. If an aircraft's registration is not renewed prior to expiration, the N-number will be administratively canceled and the aircraft is not permitted access to the National Airspace System.

AOPA Response: *AOPA opposes the expiration of aircraft registration certificates and the subsequent administrative cancelling of N-numbers.*

AOPA proposes that instead of cancelling N-numbers for aircraft whose owner has not verified using the process proposed by AOPA, these be considered "inactive" and listed in a database. A

list of these aircraft N-numbers should be made public so that aircraft owners and others can check the status of aircraft registrations. These aircraft would still be subject to the same limitations as currently proposed by the FAA with respect to access to the National Airspace System.

There are numerous valid reasons why aircraft do not fly for long periods of time and no activity is reported to the registry. Two common reasons are long-term maintenance and restoration. Owners who do not register their aircraft are not in violation of any FAA regulations and this alternative should be provided to them.

Fees to Register/Re-register Aircraft
FAA Proposes: The FAA's proposal applies the current $5 fee to its initial registration, re-registration and subsequent renewals; but the agency makes it clear that fee increases are being considered. The FAA has asked Congress for the authority to access a $130 charge for aircraft registration.

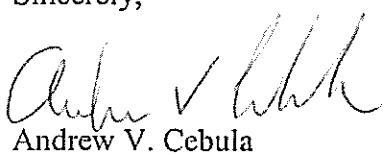
AOPA Response: *AOPA is opposed to the proposed fee increase.*

Under AOPA's alternative plan there is no need for fee increases or additional fees. AOPA's proposal provides the FAA and users of the registry a means of addressing both new and existing registry information without additional costs. This alternative plan also utilizes the existing registry infrastructure including the Triennial Aircraft Registry Report. The only significant change from the FAA proposed plan and AOPA's proposed plan is the enhancement of the online capabilities already contemplated by the FAA.

Conclusion
AOPA opposes the FAA's proposed plan to convert to expiring aircraft registrations, requiring the re-registration of all currently registered aircraft and the administrative canceling of all N-numbers issued to aircraft that do not re-register with the FAA.

AOPA does, however, support enhancing the accuracy of the FAA's Aircraft Registry. Aircraft owners must not be expected to bear the burden of correcting a system that has deteriorated over time. AOPA has provided its alternative plan that addresses the stated needs of the FAA while taking into consideration the concerns of aircraft owners. AOPA' alternative plan provide a financially responsible way to update the registry's information in a manner that minimally impacts individual aircraft owners.

Sincerely,



Andrew V. Cebula
Executive Vice President
Government Affairs

421 Aviation Way
Frederick, Maryland 21701

T. 301-695-2000
F. 301-695-2375

www.aopa.org

November 30, 2009

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

Re: Docket No. FAA-2008-0938 Pilot in Command Proficiency Check and Other Changes to the Pilot and Pilot School Certification Rules

The Aircraft Owners and Pilots Association (AOPA) is a not-for-profit individual membership organization of more than 415,000 pilots. 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 three quarters of all pilots in the United States, AOPA is the largest civil aviation organization in the world. AOPA submits the following comments to the Federal Aviation Administration's (FAA) Notice of Proposed Rulemaking (NPRM) on Pilot in Command Proficiency Check and Other Changes to the Pilot and Pilot School Certification Rules published in the Federal Register on August 31, 2009. AOPA is also submitting an additional proposal to eliminate the expiration of the flight instructor certificate.

Summary of FAA's Proposed Changes

This NPRM includes 16 changes to FAA's existing pilot, flight instructor, and pilot school certification regulations found in Title 14 of the Code of Federal Regulations. The proposed changes are intended by the FAA to update regulations to reflect advances in aircraft design and avionics, pilot training, and international relations. The proposed amendments include requiring proficiency checks for pilots who act as single pilot in command of turbo-jet powered airplanes, changes in pilot training methods including the use of Internet-based training programs and concurrent pilot certification and instrument rating training. The FAA is also proposing changes to the definition of "complex airplane" and eliminating the need for training in these aircraft in preparation for the commercial pilot certificate. Also, the FAA is proposing a revision to provide for the issuance of U.S. pilot certificates on the basis of an international licensing agreement between the FAA and foreign civil aviation authorities.

AOPA's Comments on Proposed Changes

Proposal #1 - Revise the definition of "complex airplane" to include airplanes equipped with a full authority digital engine control (FADEC) and move it from § 61.31(e) to § 61.1(b)(3)

FAA's Proposal: The FAA proposes to revise the definition of "complex airplane" to include airplanes that are equipped with a full authority digital engine control (FADEC) system consisting of a digital computer and associated accessories for controlling both the engine and propeller with a single lever control. The FAA is also proposing to move the definition of complex airplane from § 61.31 (e) to § 61.1 (b)(3).

AOPA's Comments: **Removal of § 61.31 (e), additional training required for operating complex aircraft, from Part 61**

AOPA does not oppose revising the definition of complex airplane to include airplanes equipped with a full authority digital control (FADEC) system. FADEC has the effect of simplifying the operation of the aircraft by allowing the integrated control of the engine and propeller system.

AOPA proposes that the FAA go a step further and remove the requirement for additional training and an endorsement from a flight instructor before operating as the pilot in command of a complex aircraft, in its entirety by deleting § 61.31 (e).

FAR 61.31 (e) currently requires that the pilot must be "found proficient in the operation and systems of the aircraft". AOPA contends that the requirement for specific training in a complex aircraft resulting in a complex endorsement is redundant and is met through a number of other training practices.

It should be recognized that the current industry practice is to require pilots to fly with a flight instructor and receive an aircraft standardization flight or "checkout" prior to allowing the rental of aircraft from a fixed base operator or flight school. Gear retraction systems vary greatly between the various manufacturers of general aviation aircraft, so much so that the industry requirements listed above are really type specific training. This type of requirement is much more specific and strict than the current FAA generally endorsement to fly any "complex" aircraft.

Other standard industry practices that make this endorsement redundant include requiring minimum hours logged with a flight instructor in complex aircraft before insurance companies will allow pilots to fly as pilot in command. These practices go above and beyond the requirements in § 61.31 (e) and will continue to ensure pilots have proper training before flying complex aircraft.

For many pilots the initial introduction to a complex aircraft will come during the training for a commercial pilot certificate with a multiengine rating. This scenario could become

very prevalent if the proposed change to remove the requirement for 10 hours of complex training from the commercial pilot certificate is incorporated into the final rule. It is likely that the only aircraft kept by many flight schools that would meet the complex definition are multiengine aircraft. The areas covered in the current requirements of § 61.31 (e) are more than covered in the requirements for either the commercial pilot certificate issued with a MEL class rating or the addition of a multiengine rating to an existing commercial pilot certificate.

Accident statistics also support the removal of this requirement. Between 1999 and 2008, inclusive, the AOPA Air Safety Foundation classified only 5.3% (216) of the 4,097 landing accidents that occurred in non-commercial fixed-wing flights as having been caused primarily by the pilot's failure to operate the gear correctly. Only five of the accidents during this 10 year period were fatal. This represents less than two-tenths of one percent of the 2,759 fatal accidents during that period.

Of the five fatal landing accidents in the past ten years attributed to misuse of retractable gear, four were gear-down water landings in amphibian aircraft. Gear-down water landings in amphibians generally result in a situation where the aircraft tends to nose over and hit the water before, rolling inverted. Training for water landings is addressed in other areas of Part 61 that lead to the issuance of the single engine sea (SES) and multiengine sea (MES) certificates and ratings. The one land-based landing was an aircraft that attempted a go-around after a gear-up with prop strike; the engine quit before they made it around the pattern, and the passenger was killed in the crash.

Removing § 61.31 (e) has the benefit of reducing the burden on pilots and flight instructors of obtaining an endorsement that is covered in a number of other training requirements. It also has the additional benefit of removing an unneeded regulation and requirement that many times is a stumbling block in preparing applicants for advanced pilot certificates and ratings.

Proposal #2 - Require a § 61.58, PIC proficiency check for PICs of single piloted, turbojet-powered airplanes

FAA's Proposal: The FAA is proposing to revise § 61.48 by requiring PIC proficiency checks for pilots who act as PIC of single piloted, turbojet-powered airplanes. FAR 61.58 currently require a PIC of aircraft requiring more than one pilot flight crewmember to undergo a proficiency check.

AOPA's Comments: **Economic impact on all parties has not been adequately addressed**

The FAA's proposal to require proficiency checks for pilots who act as PIC of single piloted, turbojet-powered airplanes is too broad and captures a category of aircraft that will have significant difficulty in complying with this requirement. AOPA notes that while the FAA does mention in the NPRM that "(A) although the proposal is primarily

intended to regulate VLJs, it will apply to single piloted, turbojet-powered airplanes with an experimental airworthiness certificate," the Benefit-Cost Analysis Summary of the NPRM does not appear to contain any information to the economic impact on this group of operators.

AOPA has heard from numerous operators of single piloted, turbojet-powered airplanes with experimental airworthiness certificates that this proposed regulation would have a significant economic impact on their operations, or that they may not be able to comply at all.

AOPA feels that this impact was not adequately accounted for in the Benefit-Cost Analysis Summary of the NPRM. By not addressing, or at the very least severely underestimating the economic impact to this portion of the affected community, AOPA contends that the FAA has not met the full requirements of the rulemaking process including the Regulatory Flexibility Act of 1980 (Public Law 96-354) and Executive Order 12866 which directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

It is AOPA's position that the FAA should not enact this proposal until such time as the full economic impact to all parties is determined and evaluated as required by the rulemaking process or that the proposal is modified to only address those parties of which the economic impact has been fully evaluated. It is also AOPA's position that prior to enacting this proposal, the FAA should work closely with the impacted communities including the operators of single piloted, turbojet-powered airplanes with an experimental airworthiness certificate to determine suitable alternatives that allow the continued operation of these aircraft.

Proposals #3 and #16 - Permit the application under Parts 61 and 141 for and the issuance of an instrument rating concurrently with a private pilot certificate for pilots

FAA's Proposal: The FAA proposes to revise § 61.65(a)(1) to allow applicants for a private pilot certificate and instrument rating to apply concurrently for the private pilot certificate with an instrument rating. The FAA also proposes to add a new Appendix M to Part 141 to correspond to the change proposed for § 61.65(a)(1), which would provide for a combined private pilot certification and instrument rating course.

AOPA's Comments: **FAA must not mandate issuance of instrument ratings concurrently with private pilot certificate**

AOPA is concerned that this regulatory change may be a move to mandate the instrument rating as a requirement of the private pilot certificate in the future. While AOPA is supportive of the idea of allowing those who choose to pursue a combined private

pilot/instrument rating course, the option of obtaining a private pilot certificate without an instrument rating should always be available.

AOPA also notes that the proposal does not address changes to the aeronautical experience requirements as stated in § 61.65. The FAA needs to modify § 61.65 (d)(1) to lower the current requirement of 50 hours of cross-country flight time as pilot in command. Without a change to this regulation, an applicant for a joint private pilot/instrument rating will have to accrue 50 hours of flight time as the sole occupant of the aircraft in order for it to qualify as pilot in command time. 50 hours of solo cross-country will likely be a disincentive from pursuing the joint course of study to many applicants.

Proposal #4 - Allow the conversion of a foreign pilot license to a U.S. pilot certificate based on an Implementation Procedure for Licensing (IPL) agreement

FAA's Proposal: The FAA proposes to amend § 61.71 by adding a new paragraph (c) to allow the conversion of foreign pilot licenses to equivalent U.S. pilot certificates that are issued on the basis of an Implementation Procedures for Licensing (IPL) agreement that has been approved by the Administrator and the licensing authority of a foreign civil aviation authority. On June 12, 2000, the United States and Canada signed an international agreement known as a Bilateral Aviation Safety Agreement (BASA). To date, our agreement with TCCA is the only IPL that we have entered into, and the agreement serves as the basis for proposing § 61.71(c).

The IPL currently is limited to the airplane category of aircraft at the private, commercial, and airline transport pilot levels of licenses or certificates, and includes the following ratings or qualifications: instrument rating, class ratings of airplane single engine land (ASEL) and airplane multi-engine land (AMEL), type ratings, and night qualification addressed under Part 61 and Canadian Aviation Regulations Part IV.

AOPA's Comments: **Expand scope and countries with IPL agreements**

AOPA recommends that the FAA immediately pursue IPL agreements with as many countries as possible to facilitate the conversion of other countries licenses to FAA pilot certificates. AOPA also encourages the FAA to immediately pursue expanding the existing IPL with Canada to include aircraft categories other then airplanes such as glider, lighter than air, rotorcraft and powered parachute. The FAA should also pursue expanding the existing IPL to include additional class ratings such as single engine sea (SES) and multi-engine sea (MES).

AOPA also recommends that the FAA actively work to ensure each country which enters into an IPL with the US also provide reciprocal licensing practices to allow the conversions of FAA certificates to foreign pilot licenses.

Proposals #5, #6, #10, #11, #12, #13, #14, #15 - Replace the 10 hours of complex airplane aeronautical experience with 10 hours of advanced instrument training for the commercial pilot certificate, airplane single engine class rating, multiengine class rating—

FAA's Proposal: The FAA proposes to eliminate the requirement for 10 hours of aeronautical experience in a complex airplane in both Part 61 and 141 for the issuance of a commercial pilot certificate, airplane single engine land class rating or a commercial pilot certificate with a multiengine class rating, or the addition of either a single engine class rating or multiengine class rating acquired under Part 141.

The FAA proposed to replace the 10 hours of aeronautical experience in a complex airplane with 10 hours of advanced instrument training in a single-engine airplane or multiengine airplane, or in a flight simulator, flight training device, or an aviation training device that replicates a single-engine or multiengine airplane as appropriate. The training must include instrument approaches consisting of both precision and nonprecision approaches, holding at navigational radio stations, intersections, waypoints, and cross-country flying that involve performing takeoff, area departure, enroute, area arrival, approach, and missed approach phases of flight.

AOPA's Comments: **AOPA supports the elimination of the requirement for 10 hours of aeronautical experience in a complex airplane in both Part 61 and 141 for the issuance of a commercial pilot certificate. AOPA is however concerned with the proposal to replace this time with 10 hours of advanced instrument training.**

The training requirements for the commercial pilot certificate already adequately address the flight proficiency and aeronautical experience requirements needed to become a commercial pilot. In Part 61, the regulations require an applicant to have accumulated 250 hours of flight time of which 20 hours must be training from an authorized flight instructor in the specific areas of operation required in § 61.127 which are specific to the commercial pilot certificate. The regulations already require 10 hours of instrument training specified in § 61.129. Requiring 10 additional hours of "advanced instrument training" in addition to the existing 10 hours of instrument training seems to focus heavily on instrument skills while the Practical Test Standards for the Commercial Pilot Certificate does not require a demonstration of instrument proficiency.

By adding an additional 10 hours of instrument training to the commercial pilot certificate, the FAA will be requiring more instrument training for the commercial pilot certificate then they do the instrument rating. If the FAA has explicit areas of instrument training that they would like addressed as part of the commercial training, such as those listed in the proposal, they should modify the existing training requirements instead of adding additional instrument training time.

Commercial Pilots – VFR Only

The FAA allows for the issuance of a commercial pilot certificate in an airplane to someone who does not hold an instrument rating. Requiring 10 hours of advanced instrument training in addition to the 10 hours already required for someone without an instrument rating is extreme. AOPA suggest that at a minimum, the FAA consider a separate requirement for these pilots.

Areas of focus other then instrument

AOPA suggest that the 10 hours of "advanced instrument" training proposed by the FAA may be better utilized to focus on other areas of training more appropriate to the commercial pilot certificate. AOPA suggests that the FAA convene a meeting of flight training providers and industry representatives to determine what the 10 hours of training should entail.

Practical Test Standards Should No Longer Require Complex Aircraft

AOPA also asks the FAA to modify the practical test standards for both the commercial pilot certificate and the flight instructor certificate to no longer require a complex aircraft. These changes are critical to the flight training industry in order to take full advantage of these proposed changes.

Proposal #7 - Expand the use of airplanes with a single functioning throwover control wheel for providing expanded flight training

FAA's Proposal: The FAA proposes to revise § 91.109(a) to allow for use of an airplane with a single functioning throwover control wheel for conducting flight instruction. The FAA also proposes to revise § 91.109(b)(3) to allow for the use of an airplane with a single, functioning throwover control wheel for conducting a flight review, performing recent flight experience, instrument flight experience, and instrument competency checks. This proposal parallels the long standing exemption that the FAA has issued for use with certain airplanes with a single functioning throwover control wheel.

AOPA's Comments: **AOPA supports the revision of 91.109(a) and (b)(3) to allow for the use of an airplane with a single functioning throwover control wheel for conducting flight instruction.**

AOPA also requests that the FAA modify Part 61, specifically 61.45 (e) to allow pilot examiners the authority to conduct practical tests in aircraft with a single functioning throwover control wheel for the demonstration of instrument skills. Currently, 61.45 (e) prohibits the use of aircraft with a single functioning throwover control wheel in practical tests involving the demonstration of instrument skills. This prohibition is contradictory to the existing practice of allowing instrument instruction but not allowing practical tests for the demonstration of instrument privileges.

AOPA also requests that the FAA modify appropriate regulations to allow pilots to obtain the instruction and authorizations required in Part 61 needed to obtain the complex and high performance endorsements. This would encourage pilots to obtain initial complex and high performance instruction in the same airplanes they will routinely fly thus enhancing safety.

Proposal #8 - Allow pilot schools and provisional pilot schools an exception to the requirement to have a ground training facility when the training course is an online, computer-based training program

FAA's Proposal: The FAA proposed to revise § 141.45 to allow an exception for pilot schools and provisional pilot schools to the requirement to have a ground training facility when the training course is an online, computer-based training program.

AOPA's Comments: **AOPA supports this proposal.**

Proposal #9 - Proposal to allow pilot schools and provisional pilot schools an exception to the requirement to describe each room used for ground training when the training course is an online, computer-based training program.

FAA's Proposal: The FAA proposes to revise § 141.55(c)(1) by providing an exception for pilot schools and provisional pilot schools from the requirement to describe each room used for ground training when the training course is an online, computer-based training program.

AOPA's Comments: **AOPA supports this proposal.**

Other changes requested by AOPA

AOPA Proposes the Elimination of the Expiration of Flight Instructor Certificates

AOPA is proposing that the FAA consider an additional change to Part 61 to eliminate the expiration of flight instructor certificates. In doing so, AOPA is proposing a two-part change to the present regulations. Part one proposes to eliminate the 24-month expiration date from the flight instructor certificate and replace it with an expiration of privileges of a similar duration. Under this proposal, the airman would retain the instructor certificate permanently. However, the ability to exercise the privileges of that certificate would continue to be dependent upon currency or renewal every 24 months in much the same manner as it exists today. The second part of this proposal would take advantage of the administrative change outlined above by modifying the time window in which a flight instructor may attend a Flight Instructor Refresher Clinic (FIRC) and reinstate his/her instructional privileges.

AOPA is concerned that a large number of flight instructors and former flight instructors perceive the FAA regulatory requirements for certificate expiration and reinstatement as being a significant disincentive to renewing an expired flight instructor certificate. This has substantially reduced the number of otherwise qualified and experienced part-time flight instructors available to teach and promote general aviation.

AOPA Proposal

Part 1 - Duration of Flight Instructor Certificate:

Under current regulations, a flight instructor certificate is valid for 24 calendar months from the month in which it was issued. Prior to expiration of the instructor certificate, the regulations provide a number of renewal options. An instructor may renew by attending in person or completing an online FIRC, amassing the required number of certificate applicants who have passed their practical tests, taking a flight instructor practical test, or by adding another flight instructor certificate or rating. Each of these renewal options requires the issuance of a new instructor certificate.

Flight Instructors are required by regulation to exercise one of the previously mentioned options for renewing their instructor certificates. Under the current system, flight instructors, FIRC providers, the FAA Airman Certification Branch, and local Flight Standards District Offices (FSDO) are all tasked with facilitating portions of the certificate reissuance process. The local FSDO office is tasked with administering practical test and processing on-site renewals while FIRC providers are required to process all the paperwork resulting from the renewal/refresher process. In addition, the FAA Airman Certification Branch is tasked with processing the certificate application and issuing the new flight instructor certificate.

According to FAA data, there are currently 94,616 flight instructors in the United States. Given that flight instructors are required to renew their certificates every two years, it is reasonable to assume that the FAA reissues approximately half of the flight instructor certificates annually. Based on this assumption, the FAA Airman Certification Branch annually processes more than 47,000 applications for instructor certificate reissuance.

According to the *Agency Display of Estimated Burden* listed on FAA form 8710-1, every airman certificate application submitted to the FAA Airman Certification Branch requires an average of 15 minutes to process. Therefore, this branch of the FAA alone expends an average of 11,500 salary hours annually to process the 47,000 applications for flight instructor certificate reissuance. This does not include the untold hours that FSDO personnel, FIRC providers, and instructors themselves expend on their responsibilities relating to reissuance of a single piece of paper. AOPA believes that the processing of such a great number of applications for certificate reissuance, and the resulting strain on

FAA financial and administrative resources, are contributing factors to workload at the FAA Airman Certification Branch.

The majority of airman certificates issued under part 61 are issued without an expiration date. Instead, the exercise of an airman's privileges is tied to recency of experience, or specific currency requirements. Removing the expiration date from the flight instructor certificate would allow the agency to focus on the currency of the instructor's privileges in the same manner as nearly all other pilot and mechanic certificates and ratings. From a practical standpoint, the elimination of the expiration date from the flight instructor certificate will not require any significant changes to the renewal process.

To maintain currency for another 24 months, an instructor would still have the existing renewal options of demonstrating activity, attending a FIRC, adding an additional instructor rating, or taking a practical test. The only substantive difference would be that the instructor privileges would be renewed for an additional 24 months while the certificate remains unchanged and valid. This means that the regulatory duration of an instructor certificate would be aligned with nearly all other airmen certificates in that it would be effective until surrendered, suspended, or revoked. However, exercise of the privileges of the certificate would be tied to recency requirements within the preceding 24 calendar months.

AOPA proposes that the expiration date be removed from the flight instructor certificate on the basis that such a change will substantially reduce the administrative and economic burdens placed upon the FAA, FIRC providers, and the airman. To accomplish this, a number of changes will be required to the regulatory language of 14 C.F.R. Part 61. Outlined below is suggested language to facilitate the change in emphasis from the duration of the instructor certificate to the duration of instructor privileges.

§ 61.19 Duration of pilot and instructor certificates

(d). *Flight instructor certificate.* A flight instructor certificate issued under this part:

1. is issued without a specific expiration date; and

2. is effective only while the holder has a current pilot certificate.

§ 61.197 Renewal requirements for Flight instructor certification

1. A person who holds a flight instructor certificate with privileges that have not expired may renew those privileges by:

    1. Passing a practical test for:

        (i) One of the ratings listed on the flight instructor certificate; or
        (ii) An additional flight instructor rating; or

2. Presenting to an authorized FAA Flight Standards Inspector

    1. A record of training students showing that, during the preceding 24 calendar months, the flight instructor has endorsed at least five students for a practical test for a certificate or rating, and at least 80 percent of those students passed that test on the first attempt;
    2. A record showing that, within the preceding 24 calendar months, the flight instructor has served as a company check pilot, chief flight instructor, company check airman, or flight instructor in a Part 121 or Part 135 operation, or in a position involving the regular evaluation of pilots; or
    3. A graduation certificate showing that, within the preceding 3 calendar months, the person has successfully completed an approved flight instructor refresher course consisting of ground training or flight training, or a combination of both.

(b) The practical test required by paragraph (a)(1) of this section may be accomplished in a flight simulator or flight training device if the test is accomplished pursuant to an approved course conducted by a training center certificated under Part 142 of this chapter.

§ 61.199 Reinstatement requirements of an expired flight instructor certificate

The holder of a flight instructor certificate who has not met the renewal requirements of § 61.197 within the preceding 24 calendar months may reinstate the privileges of that certificate by:

1. Passing a practical test as prescribed in § 61.183(h) of this part for one of the ratings listed on the instructor certificate.

The regulatory changes required to eliminate the expiration date and the need to reissue flight instructor certificates are relatively minor. Despite the simplicity of this change, the benefits to the FAA and to the aviation community are enormous. By implementing this change the FAA will eliminate over 11,500 salary hours of unnecessary administrative processing at the FAA Airman Certification Branch and significantly reduce the time needed to reinstate the privileges of a flight instructor holding an expired flight instructor certificate. Furthermore, the elimination of the expiration date from flight instructor certificates will not change the existing means by which instructor privileges/certificates are renewed or reinstated. Therefore, there will be no effect on the current level of safety assurance.

The elimination of the expiration date from a flight instructor certificate is a rather benign action in that it does not have any direct affect on the safety of flight or the manner in which a flight instructor renews his or her privileges after expiration. However, since no

new certificate needs to be issued by the FAA, an opportunity exists for the development of a new flight instructor privilege reinstatement option. AOPA has included a second part to our rulemaking proposal to address the issue of granting flight instructors an additional privilege reinstatement option.

Part 2 - Reinstatement of Expired Flight Instructor Privileges:

AOPA believes that the current regulations under which a flight instructor renews his or her privileges provide a disincentive for renewal. Experience has shown that many flight instructors allow their certificates to expire for several reasons. Often, an instructor will allow his or her certificate to expire because they do not engage in the type of instruction that allows them to accumulate the appropriate number of airman certificate applicants. This problem is often encountered by instructors whose primary business is made up of biennial flight reviews, instrument proficiency checks, and training of airman who have allowed their currency to lapse.

Many other instructor certificates expire because of an instructor's inability to complete a FIRC before the expiration date of their certificate. This problem is often encountered by instructors who are not regularly engaged in the business of flight training, or maintain another full time occupation. Flight instructors are often faced with unforeseen circumstances such as family emergencies, illness, and conflicting business schedules. These circumstances can make it extremely difficult, or even impossible, for an instructor to complete a FIRC within 90 days of the expiration of their instructor certificate. Additionally, many instructors allow their instructor certificates to expire simply by mistake.

Most instructors with expired certificates are discouraged from renewing their instructor privileges simply because they are required to take a practical test with an FAA inspector or a designated examiner. Many otherwise qualified instructors choose not to renew their instructor certificates simply to avoid the difficult, and often problematic, process of preparing for and scheduling a practical test. Instructors often encounter difficulties scheduling a practical test around bad weather, aircraft down for maintenance, and examiners with full schedules. Conflicting business schedules, family emergencies, and illness can add significantly to these problems. Consequently, the process of preparing for and scheduling a practical test can prove to be a monumental undertaking. Ultimately, this process dissuades a large number of highly qualified and experienced flight instructors from renewing their instructional privileges after expiration.

To encourage flight instructors with expired privileges to rejoin the instructional community, AOPA proposes a "grace period" for FIRC attendance after an instructor's privileges have expired. Under the current regulations, once an instructor certificate has expired, the only means by which an instructor may renew his/her certificate is through a practical test. AOPA contends that a flight instructor would be much more likely to renew his or her instructional privileges if there were more time allotted to attend a FIRC. For these reasons, AOPA recommends that an instructor be given three calendar months

after the expiration of his or her instructor privileges to complete a FIRC and reinstate instructional privileges.

During this "grace period", an airman's instructional privileges would obviously be expired and could not be exercised. However, AOPA holds that this three calendar month "grace period" would persuade a large number of flight instructors with recently expired privileges to attend a FIRC and rejoin the instructional community.
Outlined below is suggested language to facilitate the implementation of the three calendar month FIRC attendance "grace period".

§ 61.197 Renewal requirements for Flight instructor certification

1. A person who holds a flight instructor certificate with privileges that have not expired, or privileges that expired no more than 3 calendar months ago, may renew those privileges by;

    1. Passing a practical test for;

        1. One of the ratings listed on the flight instructor certificate; or
        2. An additional flight instructor rating; or

    2. Presenting to an authorized FAA Flight Standards Inspector;

        1. A record of training students showing that, during the preceding 24 calendar months, the flight instructor has endorsed at least five students for a practical test for a certificate or rating, and at least 80 percent of those students passed that test on the first attempt; or
        2. A record showing that, within the preceding 24 calendar months, the flight instructor has served as a company check pilot, chief flight instructor, company check airman, or flight instructor in a Part 121 or Part 135 operation, or in a position involving the regular evaluation of pilots; or
        3. A graduation certificate showing that, within the preceding 3 calendar months, the person has successfully completed an approved flight instructor refresher course consisting of ground training or flight training, or a combination of both.

(b) The practical test required by paragraph (a)(1) of this section may be accomplished pursuant to an approved course conducted by a training center certificated under Part 142 of this chapter.

§ 61.199 Reinstatement requirements of an expired flight instructor certificate.

Summary

AOPA requests changes or deletions of the portions of the NPRM listed above. These requests are being made in an effort to decrease confusion that will arise from some of the proposed changes, cause an undue burden on the pilot population, or do not meet the intention of the FAA per the justification listed in the NPRM itself.

Sincerely,

Robert E. Hackman
Senior Director
Regulatory Affairs