



Federal Aviation Administration

Memorandum

Date: May 8, 2020

To: Kyle Gardiner, Policy Analyst, Office of Information and Regulatory Affairs,
Office of Management and Budget, Executive Office of the President

From: Mark Giron, Acting Manager, General Aviation and Commercial Division
(AFS-800)

Subject: OMB Emergency Clearance for New Information Collection Request (ICR):
Relief for Certain Persons and Operations during the Coronavirus Disease
2019 (COVID-19) Outbreak

Summary

The FAA seeks emergency clearance from OMB for a new information collection in connection with Special Federal Aviation Regulation (SFAR): Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) Outbreak (COVID SFAR). This new collection would enable the FAA to collect information from members of the public in order to provide airmen with relief from certain training, recency, testing, and checking requirements, and to establish qualification requirements for airmen seeking to conduct essential operations during the COVID-19 public health emergency. If the FAA does not receive emergency approval, many airmen will cease to operate, will continue operations in violation of various federal aviation regulations, or will endanger the public health by attempting to maintain currency in ways that are contrary to national social distancing guidelines.

Pursuant to 5 CFR § 1320.13, emergency processing is appropriate where 1) the collection of information is needed prior to the expiration of time periods established under the Paperwork Reduction Act and that collection is essential to the mission of the Agency; and 2) the Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result if normal clearance procedures are followed.

Here, the COVID SFAR was published in the [Federal Register](#) on May 4, 2020, with a retroactive effective date of April 30, 2020. The collection of safety mitigation plans from certain part 125 operators and part 141 pilot schools and provisional pilot schools, which the FAA will evaluate to determine whether to extend certain deadlines for public health reasons, is essential to the safety mission of the FAA. Public harm is likely to result if the submission of safety mitigation plans is delayed.

Planned Information Collection is Necessary and Essential to the Mission of the Agency

Oversight of 14 CFR part 125 operators, and 14 CFR part 141 pilot schools and provisional pilot schools, is essential to the mission of the FAA. The rulemaking associated with this ICR is promulgated under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. The COVID SFAR provides airmen relief from certain training, recency, testing, and checking requirements, and establishes qualification requirements for airmen seeking to conduct essential operations during the COVID-19 outbreak. For these reasons, this rulemaking is within the scope of the FAA's authority.

The provisions in the COVID SFAR provide temporary relief to persons who have been unable to meet certain requirements during the national emergency concerning COVID-19. Without this final rule, certain individuals will not be able to continue exercising privileges in support of essential operations due to their inability to satisfy certain training, recent experience, testing, and checking requirements. Additionally, other individuals may—to the extent possible given closures—attempt to satisfy requirements through means contrary to the national social distancing guidelines in order to avoid economic burdens resulting from non-compliance with FAA regulations.

The FAA recognizes that there are aviation operations outside of air carrier and commercial operations conducted under part 119 of title 14 of the Code of Federal Regulations (14 CFR) that are critical during the COVID-19 outbreak, including operations that support essential services and flights that support fighting the outbreak. These operations are likely to face disruption due to a decreased supply of qualified pilots. Since March 2020 and with each month thereafter, a new group of pilots becomes unavailable to perform critical operations because they cannot comply with certain training, recent experience, testing, or checking requirements. The COVID SFAR will provide temporary relief to certain individuals whose qualifications would otherwise lapse, to ensure there is a sufficient number of qualified personnel available to conduct essential aviation activities during this period. The FAA finds that this temporary action is needed to enable individuals to continue to exercise their airman certificate privileges during the national emergency.

Public Harm is Likely to Result if Emergency Processing is Not Granted

The FAA is requesting emergency processing for the same reason that it published the SFAR with immediate effect without public comment. These actions are in response to an unprecedented public health crisis, which calls for immediate action. This regulatory action is also needed to provide immediate notification to individuals facing impending expiration dates

for certificates, endorsements, and test results. With the cessation of many non-essential aviation training and testing activities, many individuals have been unable to complete certain activities before encountering expiration dates. Absent the relief in the COVID SFAR, persons may attempt to satisfy certain requirements to avoid economic burdens associated with non-compliance, despite the fact that compliance would require acting contrary to the national social distancing guidelines. This would represent a clear danger to public health. The COVID SFAR provides immediate relief from certain duration and renewal requirements to reduce unnecessary risk of exposure and to assure persons that they will not endure economic burdens due to non-compliance with certain regulations.

Accordingly, the FAA finds that providing notice and an opportunity to comment on an ICR is contrary to the public interest, because it would delay the submission of the mitigation plans that certain entities must provide to avail themselves of the relief afforded by the COVID SFAR.

The FAA therefore believes that the use of normal clearance procedures will result in increased economic burden, disruption to critical aviation operations, and increased risk of exposure during this public health emergency. Due to the pressing considerations associated with the COVID-19 outbreak, it is not practicable to afford ninety days of public comment on this collection of information. Therefore, FAA is requesting OMB approval of this temporary collection of information upon the date that this SFAR was placed on public inspection at the Federal Register (April 30, 2020). Upon OMB approval of its Emergency clearance request, FAA will follow the normal clearance procedures for the information collection associated with this SFAR.