



Federal Aviation Administration

Memorandum

Date:

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

From: Everette Rochon, Acting Manager, General Aviation and Commercial Division
(AFS-800) Acting for Everette Rochon

Subject: OMB Emergency Clearance for Revised Information Collection Request (ICR):
Relief for Certain Persons and Operations during the Coronavirus Disease 2019
(COVID-19) Outbreak (OMB 2120-0788)

Summary

The FAA seeks emergency clearance from OMB for an amendment to an information collection that was previously approved under emergency processing (OMB 2120-0788). That collection was tied to the Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) final rule (SFAR 118) (85 FR 26326). The amendment is in connection with the Limited Extension of Relief for Certain Persons and Operations during the Coronavirus Disease 2019 (COVID-19) Outbreak final rule. This amended collection would enable the FAA to collect information from part 125 certificate holders and A125 Letter of Deviation Authority (LODA) holders in order to provide crewmembers and pilots with relief from certain training, recency, testing, and checking requirements due in July, August, or September 2020. It will also enable essential operations to continue during the COVID-19 public health emergency and the recovery. If the FAA does not receive emergency approval, many crewmembers may cease to operate or endanger the public health by attempting to maintain currency in ways that may be 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.

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

Oversight of 14 CFR part 125 operators 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. The final rule provides part 125 crewmembers and A125 LODA holders relief from certain training, recency, testing, and checking requirements, and enables essential operations to continue during the COVID-19 outbreak and the recovery. For these reasons, this rulemaking is within the scope of the FAA's authority.

The final rule expands temporary relief to a new population of pilots and crewmembers who are unable to meet certain requirements during the COVID-19 outbreak and recovery during the months of July, August, and September 2020. 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 or reduced availability of services—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 may face disruption due to a decreased supply of qualified crewmembers. The FAA finds that this temporary action is needed to enable individuals to continue to exercise their crewmember 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 is publishing the final rule 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 crewmembers whose required training, recency of experience, testing, and checking is coming due in July, August, and September. With the cessation of many non-essential aviation training and testing activities during the initial outbreak and the slow return of services during the various phases of recovery this country is in, many individuals may have difficulty scheduling certain activities before crewmember privileges expire. Absent the relief in the final rule, 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.

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 new or revised

mitigation plans that certain entities must provide to avail themselves of the relief afforded by the final rule.

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 amended collection of information. Therefore, FAA is requesting OMB approval of this amended temporary collection of information upon the date that this SFAR was placed on public inspection at the Federal Register, June 25, 2020. Upon OMB approval of its Emergency clearance request, FAA will follow the normal clearance procedures for the information collection associated with this final rule.