

**United States Department of Transportation
Federal Aviation Administration**

Supporting Statement A

**U.S. Agents for Service on Individuals with Foreign Addresses who Hold or Apply for
Certificates Issued under 14 CFR parts 47, 61, 63, 65, 67, or 107**

OMB Control Number: XXX

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The FAA's authority to issue rules on aviation safety, such as the rules governing service that are addressed by its proposed rulemaking, is found in title 49 of the United States Code. The FAA's proposed rulemaking is issued under the authority described in Subtitle VII, Part A, Subparts iii, Section 44701(a)(5). Under section 44701(a)(5), the FAA is charged with prescribing regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security. The FAA's proposed regulations and accompanying clearance request are within the scope of that authority and are also consistent with Subtitle VII, Part A, subpart iv.

Individuals with only a foreign mailing address of record with the FAA who hold or apply for FAA certificates, ratings, or authorizations are not currently required to designate a U.S. agent for service of FAA documents. However, the FAA may serve documents on a designated agent as permitted under 49 U.S.C. 46103. The FAA therefore proposes to amend 14 CFR part 3 to add subpart C with sections 3.301 through 3.303 to require individuals who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent for service if they apply for a certificate, rating, or authorization issued under 14 CFR parts 47, 61, 63, 65, 67, or 107, or hold a certificate, rating, or authorization issued under any of these parts. The U.S. agent would receive service of FAA documents on behalf of the certificate holder or applicant.

Service of certain FAA documents requires compliance with international service requirements under multi-lateral treaties or by other means that comport with the receiving country and U.S.'s applicable laws regulating extraterritorial service. The FAA's proposed rule would facilitate its ability to accomplish prompt and cost-effective service of process and service of other safety-critical or time-sensitive documents to individuals abroad through service on their U.S. agents. This would conserve agency resources, ensure that lengthy delays in service of process do not compromise aviation safety, and provide individuals abroad with timely notice of FAA actions and the opportunity for timelier due process.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The FAA's Notice of Proposed Rulemaking (NPRM) proposed the collection of personally

identifiable information (PII) of the certificate, rating, or authorization holder or applicant, and the U.S. agent they choose to designate.

For the certificate, rating, or authorization holder or applicant, the FAA is requesting the collection of the individual's full legal name, email address, their physical location/address, and mailing address. For airmen (holders or applicants of parts 61, 63, 65, 67, or 107 certificates, ratings, or authorizations), the FAA also proposes to collect the airman's date of birth, Certificate No., FTN No., and Applicant ID No. (medical). For individuals who hold or apply for aircraft registration certificates under part 47, the FAA also proposes to collect the following aircraft data: Aircraft Registration No., Aircraft Make, Aircraft Model, and Aircraft Serial No.

The information requested for the certificate, rating, or authorization holder or applicant is already collected under other existing authorized collections. The information is necessary for this collection so that the FAA can uniquely identify the individual designating an agent based on existing FAA identifiers. It is important to correctly identify each individual so the FAA can correctly associate the individual with the U.S. agent they are designating.

The FAA would also collect the U.S. agent's full legal name, the type of agent (entity or an adult 18 or older), the U.S. agent's physical location/address, fax number, email address, and telephone number. This information will be used to identify the U.S. designated agent and provide various means by which the FAA can serve documents on the U.S. agent (mail, fax, or email). The U.S. agent's telephone number is an optional collection but, if provided, it would assist the FAA in locating a U.S. agent if their information has changed or if there are issues with the service of documents on the U.S. agent.

The above information will be collected as necessary. Specifically, when individuals who have a foreign address and no U.S. physical address of record on file with the FAA apply for a certificate, rating, or authorization under 14 CFR parts 47, 61, 63, 65, 67, or 107, they will be required to designate a U.S. agent. Individuals who have a foreign address and no U.S. physical address of record on file with the FAA who already hold a certificate, rating, or authorization under 14 CFR parts 47, 61, 63, 65, 67, or 107, must comply with the proposed collection requirements no later than six months after the date of publication of the final rule. If individuals change their U.S. agent designation or their designated agent's information changes, they must notify the FAA of the new information within 30 days of the change.

The information collected is not expected to be disseminated directly to the public.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The FAA proposes to use an online process to facilitate the collection of the information to reduce the burden on the applicant or certificate, rating, or authorization holder.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The FAA has reviewed other FAA public-use reports and finds no duplication. Also, the FAA knows of no other agency collecting the same information. There are currently no requirements for individuals who have a foreign address and no U.S. physical address of record on file with the FAA and who hold or apply for certificates, ratings, or authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, or 107, to designate a U.S. agent for service. Accordingly, this new proposed collection does not duplicate any existing collections.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection will not involve small business or small entities. The FAA's proposed rule and accompanying clearance request only proposes to collect information from individuals with a foreign address on file and no U.S. physical address registered with the FAA. Therefore, the rule will not impact small businesses or entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

As of July 2022, there were approximately 115,000 individuals who held certificates, ratings, or authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, or 107 with a foreign address and who did not have a U.S. physical address of record on file with the FAA. Serving certain documents on these individuals outside of the U.S. presents a challenge for the FAA because accomplishing valid service of process abroad requires compliance with international service requirements under multi-lateral treaties or by other means that comport with the receiving country and U.S.'s applicable laws regulating extraterritorial service. These international service requirements can significantly delay service of these documents from months to over a year, and also impose additional costs on the agency. International service requirements cannot be waived by document recipients, or circumvented by sending documents electronically.

These delays can create a serious risk to aviation safety. For example, when the FAA is serving emergency orders on unqualified individuals, the individual may attempt to continue exercising the privileges of their FAA certificates until the FAA serves them in accordance with international service requirements. Service delays may also impact when individuals receive notice of the FAA's action and their opportunity to timely respond.

Additionally, international service requirements impose costs on the FAA in the form of fees from receiving countries' central authorities that process the FAA's service requests and document translation costs. If the FAA could serve its documents domestically on U.S. agents, then international service treaties and their requirements would not apply. The FAA could save the costs of countries' central authority service fees and translation costs, as the FAA could serve the documents in English directly on individuals' U.S. agents.

Further, most countries are not parties to the Hague Service Convention or the Inter-American Service Convention and Additional Protocol (IACAP). Service of process to individuals in these countries must comport with the receiving country's laws and U.S. law regulating extraterritorial service of process. There is no central repository specifying what the service requirements are in each of these countries. Accordingly, at minimum, service to these countries requires the FAA to consult with the Department of State, Department of Justice, or local counsel in the receiving country to determine what constitutes effective and legally permissible service in that country. If a country objects to postal service, letters rogatory are likely the only available and recognized means of service. Letters rogatory through diplomatic channels take eighteen months or more.

In sum, these international service requirements cause tremendous delays to service, with safety implications, and they impose significant costs on the agency. By requiring individual certificate, rating, or authorization holders abroad to designate a U.S. agent for service, the FAA's proposed rulemaking would enable prompt and cost-effective service of documents to individuals abroad through service on their U.S. agents. This would conserve agency resources, ensure that lengthy delays in service of process do not compromise aviation safety, and provide individuals abroad with timely notice of FAA actions. For consistency, and to streamline service on U.S. agents, the agency is also proposing to serve other time-sensitive or safety-critical documents in its discretion on U.S. agents even when international service requirements are not triggered.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document; requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

None of the above methods of collection apply to this collection. This information collection is consistent with the guidelines in Title 5 CFR 1320.5(d)(2)(i)-(viii).

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The FAA has provided this new information collection for public comment in the U.S. Agents for Service Notice of Proposed Rulemaking, published on June 12, 2023 (88 Fed Reg 3801). The public had an opportunity to provide input concerning the proposed information collections as outlined in the Notice of Proposed Rulemaking. The public comments are publicly available on Regs.gov (<https://www.regulations.gov/docket/FAA-2023-1194/comments>).

In summary, the FAA received a total of 14 comments, two of which were duplicates. All comments were from individual anonymous commenters. Seven of the comments were outside the scope of the rule. Five of the commenters opposed the rule. Three of these commenters suggested changes, as did one additional commenter who neither supported nor opposed the proposed rule. One of the commenters proposing a change noted that we defined the term “U.S. agent address” but did not use it in the proposed regulations, so FAA is incorporating the definition into the proposed regulation without any substantive change to the regulation. Of the other three commenters that suggested changes, two commenters requested full exemption from the rule for certain certificate holders, and one commenter requested an alternative to the rule that would only apply to pilots. As discussed below, neither the exemption nor the alternatives requested were viable options. Accordingly, the FAA is adopting the rule as proposed, without adopting the requested exemptions or proposed alternatives.

1. Exemption Request: Request for exemption from the U.S. agent for service requirement for U.S. government employees, military members, and special purpose pilot authorization (SPPA) holders

Two commenters requested full exemption from the rule for certain certificate holders. Specifically, the commenters suggested that U.S. government employees, military members, and special purpose pilot authorization (SPPA) holders should be exempt from the rule because the FAA should easily be able to find and contact them through their employers (such as the U.S. government, military, or private companies). The FAA notes the purpose of the rule is not to locate certificate holders abroad, but rather to provide service of documents to individuals whose location abroad is already known. More importantly, service on an employer does not satisfy service of process requirements under 49 U.S.C. § 46103. The rule, however, does not preclude an individual from designating their employer as their US agent for service if the employer agrees and meets the requirements provided by this rule in 14 CFR Part 3, Subpart C. Accordingly, the FAA is adopting the rule as proposed, without the requested exemptions.

2. Alternatives Request: Request for pilots to have alternatives to a U.S. agent for service such as email or voluntary and temporary certificate surrender when pilots go abroad

One commenter requested that FAA consider alternatives to the rule that would only apply to pilots. Specifically, the commenter requested that FAA consider email service for pilots or allow pilots to temporarily and voluntarily surrender their certificate(s) to the FAA for the time they are abroad. The FAA notes that alternatives to the rule that would only apply to pilots, as proposed by the commenter, rather than all the applicable certificate, rating, and authorization holders and applicants impacted by this rule would be unequal and inappropriate. Nevertheless, the FAA considered the proposed alternatives, in case they could be viable options for all individuals impacted by the rule. The FAA determined that neither option is a viable alternative to a U.S. agent.

The NPRM already addressed why email service is not a viable alternative to the proposed rule. Specifically, the NPRM explained that international service conventions do not expressly authorize email service of process abroad, and that email service abroad could violate the internal law of the receiving state and potentially result in judgments that are unenforceable in foreign courts. Additionally, 49 U.S.C. 46103, which governs the FAA's service of process, does not provide for email service. Accordingly, the FAA cannot adopt the commenter's proposed email alternative to a U.S. agent.

The commenter's second proposed alternative of temporary and voluntary certificate surrender to the FAA does not remedy the issue the rule is addressing. The purpose of the rule is to assist the FAA with efficient and effective service of documents to individuals abroad. An individual's temporary and voluntary certificate surrender for the time they are abroad does nothing to assist the FAA with serving a document to the individual once they are outside the United States. For example, if an individual violates the Federal Aviation Regulations before going to live abroad for a year, the FAA may need to take enforcement action and serve the individual with a notice or order for that violation when they are abroad. This would be true regardless of whether the individual decides to put their certificate on hold with the FAA temporarily and voluntarily for the time they are abroad. As a separate matter, for policy and cost reasons, FAA's regulations do not provide for temporary and voluntary certificate surrenders where the FAA is essentially asked to temporarily store certificates for an individual's self-serving purposes. The FAA, therefore, has not adopted the commenter's proposed alternative of temporary and voluntary certificate surrender to the FAA.

3. General Opposition with No Proposed Changes

Two commenters generally opposed the rule, without proposing any changes, based on a misunderstanding of current requirements or the rule. Both commenters asserted that an individual with a U.S. address of record with the FAA does not have to designate a U.S. agent or be reachable at their U.S. address, and, therefore, questioned why an individual abroad, with no U.S. postal address, would need to establish more reliable postal communication with the FAA by designating a U.S. agent. The underlying assumption that certificate, rating, and authorization holders do not have to be reachable at their address of record with the FAA, whether in the U.S. or abroad, is incorrect. The FAA's responsibility of ensuring a safe National Airspace System

requires that the agency be able to reach certificate, rating, and authorization holders. Individuals are expected to be reachable at their address of record on file with the FAA.

However, the purpose of this rule is not about the reliability of individuals' addresses, regardless of location. Rather, this rule is intended to provide FAA with a means to provide timely and cost-effective service abroad in light of international service requirements. The FAA can more effectively and efficiently send mail to a U.S. address than abroad due to international service requirements that are discussed in the NPRM. This distinction justifies the requirement of U.S. agents for individuals who have a foreign address of record on file with the FAA and no U.S. physical address of record on file with the FAA.

The second commenter also misunderstood the proposed rule as requiring individuals to designate two U.S. agents in the event their U.S. agent is on vacation. The rule does not require individuals to designate two U.S. agents. Rather, the NPRM explained the importance of ensuring reachability in the event a designated U.S. agent for service is temporarily unable to accept service and offered a proposed solution that did not require the designation of a back-up U.S. agent. U.S. agents could have a friend or associate collect the mail and notify the individual of the service. Therefore, the FAA is not making any changes to the rule as a result of the comments.

4. Out-of-Scope Comments

The FAA received seven out-of-scope comments. Three asked about the public availability of the Privacy Impact Assessment (PIA), which was addressed by reopening the comment period when the PIA became publicly available on the website of the Department of Transportation. Another comment, received after the comment period was reopened, stated that 15 days was not enough time to comment on the PIA. The FAA considered 15 days to be sufficient time to comment on the PIA. The document was publicly available since August 23, 2023, almost two months before the reopening of the comment period and is not a document that requires public comment.

The other out of scope comments were about CARES requirements and availability as it pertained to use of that system for U.S. agent designation. These comments are out of scope and premature. The PIA simply identified CARES as one potential system FAA could use to collect U.S. agent information at some point in the future. These comments have not resulted in any changes to the rule.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Respondents are provided no payment or gift in connection with this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

There are no assurances of confidentiality other than those provided under the following noted applicable SORNs.

The information collected from individuals who hold or apply for certificates, ratings, or authorizations under 14 CFR parts 61, 63, 65, 67, or 107 will become part of the Privacy Act system of records DOT/FAA 847, General Aviation Records on Individuals, and afforded the protection offered under the Privacy Act and that particular system.

The information collected from individuals who hold or apply for a certificate under 14 CFR part 47 will become part of the Privacy Act system of records DOT/FAA 801, and afforded the protection offered under that particular system.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No information of a sensitive nature is requested or required to designate a U.S. Agent for service.

12. Provide estimates of the hour burden of the collection of information.

The FAA is proposing to require individuals who hold or apply for certificates, ratings, or authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, or 107 and who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent.

Use: The information collected and maintained in FAA databases would be used to serve various documents to the designated U.S. agents of individuals with a foreign address.

Respondents: As of July 2022, there were approximately 115,000 individuals who held certificates, ratings, or authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, or 107 with a foreign address and who did not have a U.S. physical address of record on file with the FAA.

After the implementation of the proposed rule in Year 1, the FAA expects that the number of new applicants who would be required to submit a U.S. agent designation would be 4,362. In addition, the FAA estimates that annually approximately 4,606 respondents might process a change of U.S. agent designation or an update to their U.S. agents' contact information.

Frequency: All 115,000 individuals with a foreign address, with no U.S. physical address, who currently hold certificates, ratings, or authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, or 107 will be required to submit a U.S. agent designation once during the implementation of the rule in Year 1. After all current individuals impacted by this rule submit their U.S. agent designation, the FAA estimates that 4,362 respondents identified as new applicants would submit a U.S. agent designation at the time of their application after Year 1. Additionally, the FAA estimates that 4,606 respondents might need to change their U.S. agent or update the information for their current U.S. agent in subsequent years.

Summary (Annual numbers)	Year 1 Report- ing	Year 1 Record- keeping	Year 1 Disclosure	After Year 1 Report- ing	After Year 1 Recordkeeping	After Year 1 Disclosure
# of Respondents	115,132	N/A	N/A	8,968	N/A	N/A
# of Responses per respondent	1	N/A	N/A	1	N/A	N/A
Time per Response	10 minutes	N/A	N/A	10 minutes	N/A	N/A
Total # of responses	115,132	N/A	N/A	8,968	N/A	N/A
Total burden (hours)	19,189	N/A	N/A	1,495	N/A	N/A

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.

Using the burden hours provided in the section above, the FAA estimates that it would take an individual 10 minutes to submit a U.S. agent designation. In Year 1, the estimated number of annual burden hours would be 19,189 hours (115,132 individuals x 10 minutes), and 1,495 hours each year afterwards ($=[(4,362 \text{ new applicants} + 4,606 \text{ applicants modifying U.S. agent designation}) \times 10 \text{ minutes}]$). The estimated annual cost to individuals would be \$1,195,761¹ in Year 1 and \$93,130 (\$45,300 + \$23,915 + \$23,915), each year afterwards.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The collection of the U.S. agent designation will be fully automated. Therefore, there will be no new cost to the government. While the FAA would incur implementation costs to update its systems and collect the agent information, the initial implementation costs will be offset by saving the baseline foreign service process costs and avoiding the costs of translation services (required by contracting parties to the Hague Service Convention).

15. Explain the reasons for any program changes or adjustments.

The FAA proposes to collect this information in accordance with a proposed rule to require certificate, rating, and authorization holders with a foreign address and no U.S. physical address to designate a U.S. Agent for service. No current rule or program that collects such information currently exists.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

No requirement exists that would obligate the FAA to publish for statistical use any information collected in accordance with this collection. The FAA does not intend to publish the information collected on any public forum.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The FAA does not seek approval to refrain from displaying the expiration date of OMB approval

¹ Using a loaded wage rate of \$62.32 and \$10 a minute ($=10/60$ or 0.167 hour) estimated to submit a U.S. agent designation, the FAA calculates that these individuals would incur \$1,195,761, ($= 115,132 \times \$62/\text{hour} \times 0.167 \text{ hour}$). This estimate assumes that all U.S. agent designations will be made electronically without mailing costs to individuals.

of this proposed information collection.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

The FAA has not identified any exceptions that apply to this proposed collection.