February 17, 2011

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

Reference: Comments to Docket No. FAA-2010-1127, Photo Requirements for Pilot Certificates

Dear Sirs,

EAA (Experimental Aircraft Association) is the world leader in recreational aviation. With an international membership of 160,000 people in more than 110 nations, EAA brings together aviation enthusiasts, pilots and aircraft owners who are dedicated to *Sharing the Spirit of Aviation* by promoting the continued growth of aviation, the preservation of its history and a commitment to aviation's future. EAA programs, activities and events are known throughout the world for *Preserving* the heritage of aviation, *Promoting* access to flight, *Protecting* the right to fly, *Preparing* for the future of aviation, and of our *Passion* for aviation safety and education.

The proposal to include a photograph of the airman on FAA issued pilot certificates is intended to fulfill the requirements of the Intelligence Reform and Terrorism Prevention Act (IRTPA) enacted December 17, 2004. While EAA has historically supported the concept of improved identification on airman certificates we do not support the adoption of the proposed requirements because:

- The proposal would pose an unnecessary financial burden on pilots with no increase in the current level of security;
- May not meet all of the congressionally mandated security requirements;
- Does not satisfy Department of Homeland Security (DHS) and Transportation Security Administration (TSA) standards for secure identification; and
- An estimated six to eight week delay for the issuance of student pilot certificates is unacceptable.

Although EAA does not support the adoption of the NPRM in total as proposed, comments are provided below regarding the seven specific questions the Agency is seeking input.

Unnecessary Financial Hardship

Statutory authority permits the FAA to charge a maximum fee of $22.00 for issuing, upgrading, or adding ratings to an airman certificate. If the proposal is adopted, the Agency would begin to charge at least that amount. Depending on the outcome of the FAA Reauthorization process, these fees could increase to $50 for issuing a certificate or rating and $25 for its replacement.

Additionally, since the proposal would require in-person identity verification, the FAA anticipates allowing designees to accept and verify applications for pilot certificates with photos to lessen the inconvenience to certificate holders and new applicants. The designees would then be at liberty to charge an additional fee on top of one charged by the FAA. There is no means to estimate this designee fee.

During the implementation period, when a pilot applies for a new certificate or rating, it would be considered a "triggering event," forcing the applicant to obtain a new certificate with a photo.

For pilots who do not have a "triggering event," the FAA proposes a phased approach. A pilot with an airline transport pilot (ATP) certificate would have three years after the final rule becomes effective to obtain a pilot certificate with photo. A commercial pilot would have four years, with private, recreational, or sport pilots having five years to obtain a new certificate. These would constitute "non-trigger" events.

The proposal estimates the total costs to pilots would be $445.8 million over a 20-year period and estimates the cost for a "non-trigger" event to be about $175 for commercial pilots; significantly more than the $22 fee proposed. EAA would argue that the costs would be similar for any pilot, regardless of certificate level, and disagrees with the FAA assumption that $175 per renewal does not represent a significant impact.

EAA cannot support the adoption of the proposal due to the uncertainty in the fees imposed upon the pilot community. The proposed fee is $22 per certificate but the NPRM clearly indicates the fee would be adjusted periodically based solely on an FAA estimate of expenses to provide the service for which there is no incentive to control costs. Additional fees would then be added for designee identification verification. The actual costs to the pilot community are effectively impossible to estimate and significantly understated in the NPRM.

No Increase in the Current Level of Security

Pilots are currently required under 49 CFR §61.3 to have photo identification in their possession or readily accessible when exercising the privileges of their pilot certificate or authorization. The photo identification must be a:

1. Valid driver's license issued by a State, the District of Columbia, or territory or possession of the United States;
2. Government identification card issued by the Federal government, a State, the District of Columbia, or territory or possession of the United States;
3. U.S. Armed Forces' identification card;
4. Official passport;
5. Credential that authorizes unescorted access to a security identification display area (SIDA) at an airport regulated under 49 CFR part 1542; or
6. Other form of identification that the Administrator finds acceptable.

The above documents contain a photo of the pilot and require in-person identity verification.

EAA posits that there will be no increase in the current level of security by placing a photo on a pilot certificate when compared to the current requirement under 49 CFR §61.3.

Congressional Mandate Requirements

Section 4022 of IRPTA requires the Agency to issue improved pilot certificates that:

1. Are resistant to tampering, alteration, or counterfeiting;
2. Include a photograph of the individual to whom the certificate is issued; and
3. Are capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier the FAA Administrator considers necessary.

The Drug Enforcement Assistance final rule required all pilots to obtain a plastic certificate by March 31, 2010. These new plastic certificates are resistant to tampering, alteration, or counterfeiting, satisfying the first IRPTA requirement.

As previously stated, EAA considers the coupling of a pilot certificate with government-issued photo identification to meet the second requirement of the IRPTA.

Regarding the biometric identifier, the magnetic strip located on the back of current pilot certificates could contain biometric data, subsequently meeting the mandate requirement.

However, any proposal from the Agency could be determined not to meet all of the requirements of IRPTA. Biometrics consists of methods for uniquely recognizing people based upon one or more intrinsic physical or behavior trait. Biometric characteristics can be divided into two main classes; physiological and behavioral. Physiological biometric examples include fingerprint, face recognition, DNA, palm print, hand geometry, iris recognition, and/or retina scans. Behavioral examples include gait, typing rhythm, and/or voice verification. EAA considers the requirement for biometric data on a pilot certificate, which most pilots never present, unnecessary and excessive.

EAA contends that the current pilot certificate meets the IRPTA requirements when coupled with a government issued photo ID as per required by §61.3.

DHS and TSA Identification Standards

The proposal states that the TSA is considering a rulemaking to improve security vetting of airman certificate holders and applicants for airman certificates. If the TSA issues a final rule regarding airman security vetting, the FAA may issue conforming requirements in any final rule resulting from this proposal, subsequent to a supplemental notice of proposed rulemaking, or as part of a new rulemaking project, depending on the scope and timing of the TSA's actions.

A TSA identification rule would affect operations at airports that have commercial service, as was the case with its commercial airport Security Directive 1542-04-08G. The FAA currently lists 551 Part 139 airports versus 5,200 general aviation airports. Pilots choose to operate into or out of an airport with commercial service and those who do are required to comply with any TSA identification requirement.

EAA contends that a revised pilot certificate must meet any current and proposed TSA requirements. However, the revised certificate should be elective in nature. If a pilot chooses to operate an airport that requires security badges, then he or she can "upgrade" to a new FAA issued pilot certificate that also meets the TSA requirements. Any new pilot certificate should meet all security badge requirements for airports. The current patchwork of airport specific SIDA cards has proven to be prohibitively burdensome. Pilots who do not access Part 139 airports should not be required to "upgrade" to a new pilot certificate, thus foregoing the expense and time required to obtain one.

EAA suggests the Agency consider the Transportation Worker Identification Credential (TWIC) program before implementing another pilot certificate change. The TWIC program provides a tamper-resistant biometric credential to maritime and other transportation workers requiring unescorted access to secure areas.

The Government Accountability Office has said the TWIC program has suffered from a lack of oversight and poor coordination. A delay in the development and implementation of card reader technology has resulted in significant rollout issues and

lag time. Lessons learned from the TWIC program should be examined and studied before the Agency adopts any pilot certificate upgrade proposal rather than expedite the NPRM that could ultimately face the same problems the TWIC program is facing today.

Student Pilot Certificate Lag Time

The proposal notes that the issuance of a pilot certificate with photo could take up to six to eight weeks. EAA is concerned about the effect this could have on the student pilot, now required under the proposal to obtain a certificate with photo.

A student pilot in an accelerated course could be ready for his or her first solo well before six weeks. If he or she is then forced to effectively stop their training and wait for a pilot certificate, there would be a degradation of skills, often requiring remedial training and added expense.

Currently, student pilots can obtain both their student pilot certificate and medical from an Aviation Medical Examiner (AME). If the proposal is adopted, student pilots would still have to go to an AME for their medical, but now also to a FSDO, knowledge testing center, or designee for identity verification and pilot certificate application. This represents an additional barrier to entry when the industry continues to see pilot numbers decline and a student pilot attrition rate of 70 to 80 percent.

Responses to specific NPRM questions

(1) Should the FAA require applicants to produce fraud-resistant documents to verify identity? If so, which documents or other identity verification procedures should the FAA implement to ensure a high level of confidence in the verification process?

- Again, EAA encourages the Agency to use the framework established by the TWIC program and adopt the list of documents it uses for identity verification.

(2) Should the FAA consider an alternative implementation approach to the "trigger" and "non-trigger" approach set forth in the proposal?

- EAA urges the FAA to work with the TSA and coordinate any proposed rulemaking and postpone any changes to pilot certificates until pilots can be assured a new certificate satisfies all federal requirements.

  When that assurance can be guaranteed, EAA recommends the implementation be phased in, on an as-needed basis. Pilots operating into or out of Part 139 airports or needing access to security identification display areas would be required to obtain new certificates. These new certificates would meet all requirements for TSA and FAA and should give the pilot access the non SIDA areas of all airports rather than only one.

This approach will allow pilots who need an enhanced photo identification to obtain one and pilots who choose not to operate in that environment to opt-out. A pilot operating out of an uncontrolled grass-strip has no need for such an identification badge and would represent an additional burden with no commensurate benefit.

(3) Are there alternative, potentially less burdensome, methods for pilot within the U.S. and outside of U.S the FAA should consider to accept pilot certificate applications and validate applicant identity?

- EAA views the least burdensome method for a pilot to submit a pilot certificate application and validate applicant identity to be at the local FSDO office. There will be additional costs for travel and time, but the FDSO method represents the only alternative in which an additional, yet to be determined, fee would not be imposed on the pilot. EAA would encourage the Agency to develop the training and equipment for photo capture, processing, and uploading at the FDSO office, if the proposal is adopted.

  EAA also recommends the FAA develop a pilot certificate outreach program where FAA Inspectors travel to major aviation events, such as AirVenture Oshkosh. The outreach program should provide a complete one-stop application, validation, and photo taking pilot certificate conversion facility for pilots to take advantage of while at these major events.

(4) Is the proposed 8-year duration for the photo, based on the photo duration for state driver's licenses under the Real ID Act, a reasonable period of time that balances the security needs expressed in IRTPA and the burden on certificate holders?

- In order to provide continuity throughout the federal government and lessen the possibility of future changes, EAA would recommend, if the proposal is adopted, the Agency include an 8-year duration for the photo in order to comply with the requirements under the Real ID Act of 2005.

(5) Is there any reason why student pilot certificates should not be treated like other pilot certificates for the purposes of meeting the IRTPA requirements?

- As previously stated, the proposal notes that the issuance of a pilot certificate with photo could take up to six to eight weeks. EAA is concerned about the effect this could have on the student pilot, now required under the proposal to obtain a certificate with photo.

  A student pilot in an accelerated course could be ready for his or her first solo well before six weeks. If he or she is then forced to effectively stop their

training and wait for their pilot certificate to arrive, there would be a degradation of skills, often requiring remedial training and added expense.

(6) With respect to the photo that is placed on the pilot certificate, should the FAA accept only hard copy photos, only digitally-captured photos, or either hard copy or digitally-captured photos?

- In order to ensure the application and verification process to be the least prohibitively burdensome, EAA would recommend the Agency accept either a hard copy or digitally captured photo.

(7) If the FAA accepts digitally-captured photos, what are the advantages and disadvantages of the following methods of acquiring the photo?

a) An applicant uploading a self-captured photo to the IACRA sub-system;

- Advantages – low cost possibility regarding time and travel

- Disadvantages – lack of continuity and additional fee for DPE

b) FSDO capturing the photo when the application is submitted;

- Advantages – high level of continuity for photo, equipment and training would also be standardized, no additional fee for applicant

- Disadvantages – costs incurred for travel and time

c) Knowledge Testing Center capturing the photo when an application is submitted;

- Advantages – geographic proximity to applicant

- Disadvantages – additional fee

d) DPE capturing the photo when an application is submitted?

- Advantages – geographic proximity to applicant

- Disadvantages – additional fee, lack of training, continuity

Summary

EAA recognizes the FAA proposal is in response to section 4022 of the Intelligence Reform and Terrorism Prevention Act. However, the IRTPA was enacted December 17, 2004 and EAA questions the urgency and fundamental need for this proposal.

EAA believes the proposal, if enacted, would pose an unnecessary financial burden on pilots with no increase in the current level of security, may not meet all of the congressionally mandated security requirements, not satisfy DHS and TSA standards for secure identification, and force student pilots to unnecessarily delay training.

EAA recommends the Agency postpone any rulemaking relating to photo requirements for pilot certificates until the proposed change aligns with TSA security requirements. In addition, the new certificate should meet all Part 139 airport security badge requirements. EAA firmly believes new certificates should be issued on an as-needed basis and only for those pilots who choose to operate at airports requiring security badges per TSA Security Directive 1542-04-08G.

EAA appreciates your time and the opportunity to comment on this matter of significant importance to the aviation community. We stand ready to answer any questions or provide any additional information required.

Respectfully,

David Oord
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