

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 61, 65, 67, and 183**

[Docket No.: FAA-2007-27812; Amdt. Nos. 61-121, 65-52, 67-20, and 183-13]

RIN 2120-AI91

Modification of Certain Medical Standards and Procedures and Duration of Certain Medical Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule extends the duration of first- and third-class medical certificates for certain individuals. A first-class medical certificate is required when exercising airline transport pilot privileges and at least a third-class medical certificate when exercising private pilot privileges. Certain conforming amendments to medical certification procedures and some general editorial amendments are also adopted. The intent of this action is to improve the efficiency of the medical certification program and service provided to medical certificate applicants.

DATES: These amendments become effective August 25, 2008 except for the amendments to § 61.23(d) which become effective on July 24, 2008.

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SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation Programs, describes, in more detail, the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Chapter 447, Sections 44701, 44702 and 44703. Under Section 44701 the Administrator has the authority to prescribe regulations and minimum standards for practices, methods and procedures necessary for safety in air commerce and

national security. Under Section 44702 the Administrator has the authority to issue certificates. More specifically, under Section 44703(b)(C) the Administrator has the authority to decide terms necessary to ensure safety in air commerce, including terms on the duration of certificates and tests of physical fitness. This rule extends the duration of first- and third-class medical certificates for certain individuals in order to improve the efficiency of the medical certification program and service provided to medical certificate applicants, without compromising the safety of air commerce. For this reason, the proposed change is within the scope of our authority and is a reasonable and necessary exercise of our statutory obligations.

Background

Summary of the Notice of Proposed Rulemaking

Currently, the maximum duration on a first-class medical certificate is 6 months regardless of age and, on a third-class medical certificate, 36 months for individuals under age 40. On April 10, 2007 [72 FR 18092], the FAA proposed to amend § 61.23(d) to extend the duration of first- and third-class medical certificates for individuals under the age of 40. First-class medical certificates for individuals under age 40 would be extended from 6 months to 1 year and third-class medical certificates for individuals under the age of 40 would be extended from 3 years to 5 years.

The FAA developed this proposal through review of relevant medical literature, its own aeromedical certification data, and accident data. Additionally, the FAA considered the long-standing International Civil Aviation Organization (ICAO) standards requiring annual medical certification for airline transport and commercial pilots in multi-crew settings and also the ICAO standards adopted in November 2005 extending medical duration for private pilots from 2 years to 5 years under the age of 40. These ages and examination periods were selected based on current ICAO standards, in effect since 2005, which have not had an adverse impact on safety, and based on trends with younger applicants indicating no significant increase in undetected pathology between required examinations. Those individuals manifesting conditions that represent a risk to safety will continue to be denied certification or, after individual evaluation, will continue to be restricted in their flying activities, or examined more thoroughly and frequently, or

both. Further, this rule will continue, and not affect, the long-standing regulatory prohibition in § 61.53 against exercising privileges during periods of medical deficiency.

In addition to extending the duration of first- and third-class medical certificates, the FAA also proposed the following minor, mostly editorial, changes:

Add New Section § 67.4

- To provide more specific direction to applicants applying for a medical certificate, including how to locate an Aviation Medical Examiner (AME).

- To codify that applicants must fill out a form to apply for a medical certificate and thereby conform part 67 with existing language under § 61.13 that requires pilot certificate applicants to make application "on a form and in a manner acceptable to the Administrator."

- To codify that applicants must present proof of age and identity for airman medical certification.

Amend § 183.15

- To remove a specific time limit for the duration of the designation of AMEs. The FAA had done this previously under rulemaking effective in November 2005 but it was made applicable only for designees of the Flight Standards and Aircraft Certification Services. This action will make a consistent standard for all FAA designees, including AMEs, by having duration set at the discretion of the FAA.

Edit §§ 61.29, 65.16, 67.3, 67.401, 67.405, 67.411, 67.413, and 183.11

- **§§ 61.29 and 65.16:** To provide a new P.O. Box for applicants to use when they need a replacement medical certificate or when they need to change their name on a medical certificate. While the current P.O. Box listing is valid, the FAA finds that requests sent to this alternate P.O. Box are received more expeditiously thus allowing the FAA to provide better service to applicants. In the proposal the FAA inadvertently amended § 65.16(b) with the new P.O. Box when we intended to amend § 65.16(c). The final rule correctly amends § 65.16(c).

- **§ 67.405:** To move certain provisions of this paragraph under new § 67.4.

- **§ 67.411:** To delete this section that addresses military flight surgeons on a specific military base being designated as AMEs. Because the FAA has ceased designating AMEs at particular military installations in favor of designating individual military personnel as AMEs (just as it does civilian AMEs) the

distinction made in this provision is no longer needed.

- § 67.413: To re-format this section to make it easier to read and understand.
- § 183.11: To make an editorial change (revising “his” to “his or her”) to be consistent with a conforming amendment in § 67.407(d) that says “his or her.”

Summary of Comments

The FAA received 36 comments to the April 10, 2007 proposal. Commenters generally supported the proposed changes. The National Transportation Safety Board (NTSB) commented as did eight aviation associations including the Aerospace Medical Association, the National Air Transport Association, the Air Line Pilots Association International, the Aircraft Owners and Pilots Association, the Experimental Aircraft Association, the Civil Aerospace Medical Association (CAMA), the Helicopter Association International, and the National Business Aviation Association. One manufacturer, Cessna Aircraft Company, indicated that it appreciated the opportunity to comment but had no specific comment at this time.

The remaining comments were from individuals. Among these commenters, a few opposed it, including an AME, who indicated that under-age-40 individuals should be examined as frequently as over-age-40 individuals. More commenters indicated, however, that the proposed action is appropriate but should be further amended, for example, to extend the duration of medical certificates for over-age-40 individuals.

Commenters requested specifically that the FAA consider the following for the final rule:

- Extend the duration of medical certificates for individuals over age 40. (4 comments)
- Extend the duration of student pilot certificates to 60 months. (1 comment)
- Extend the duration of second-class medical certificates beyond 12 months. (1 comment)
- Allow a U.S. driver's license as medical qualification in lieu of an FAA medical certificate to exercise recreational pilot privileges. (4 comments)
- Develop policy to address the impact (at the third-class level) of the 3-year limit on the National Driver Registry (NDR) search once the interval between medical applications is extended to 5 years. (2 comments)
- Require pilots to report in a timely fashion to the FAA any medical

conditions that may develop between examinations. (2 comments)

- Develop a more efficient method for medical certificate holders to report changes in medical conditions, rather than relying on self-assessment policies during periods of medical deficiency. (2 comments)
- Clarify the intent of § 61.23(d) regulatory language with regard to how the proposed duration periods will be implemented. (3 comments)

Discussion of Final Rule

Analysis of Comments

As noted above, some commenters requested that the FAA provide relief beyond what was proposed, while others requested that the FAA adopt more rigid policies, even reporting requirements, to more closely monitor any changes in medical qualification status that a medical certificate holder may experience. We have considered the comments and provide our analysis below.

Specific Reporting Requirement

The NTSB suggested that pilots be required to report potentially disqualifying medical conditions to the FAA in a timely fashion if such conditions develop between examinations. The NTSB referenced international reporting requirement practices, including the ICAO Recommended Practice 1.2.6.1.1, which states the following:

1.2.6.1.1 Recommendation.—License holders should inform the Licensing Authority of confirmed pregnancy or any decrease in medical fitness of a duration of more than 20 days or which requires continued treatment with prescribed medication or which has required hospital treatment.

It also referenced a requirement of the European Joint Aviation Authorities, JAR FCL 3.040 which states the following:

JAR—FCL 3.040 Decrease in Medical Fitness

(c) Holders of medical certificates shall, without undue delay, seek the advice of the AMS, an AMC or an AME when becoming aware of:

- (1) Hospital or clinic admission for more than 12 hours; or
- (2) surgical operation or invasive procedure; or
- (3) the regular use of medication; or
- (4) the need for regular use of correcting lenses.

The CAMA also suggested that the FAA develop a more sophisticated system for pilots to report medical conditions.

The FAA disagrees that a specific reporting requirement is warranted and believes that FAA policy and existing regulation meet the intent of the international standard. Long-standing FAA regulation (§ 61.53) requires that before every flight a pilot should evaluate fitness to fly, not just when the decrease in medical fitness would last more than 20 days or when it requires continued treatment. Existing § 61.53 also specifies that medical certificate holders may not exercise pilot privileges if they are “taking medication or receiving other treatment for a medical condition that results in the person being unable to meet the requirements for the medical certificate necessary for the pilot operation.” Individuals with a medical certificate who choose to exercise pilot privileges are bound by the FAA’s disqualifying medical conditions set forth under part 67 as they are by any decrease in general medical condition as set forth under § 61.53. The provisions of § 61.53 are referenced on the reverse side of the medical certificate which pilots are required to carry with them at all times when they exercise flight privileges. The ability to certify no known medical conditions in order to ensure the safe operation of aircraft is a required, critical component of a pilot’s flight planning procedures.

Pilot safety brochures, widely disseminated to the pilot community on our Web site and by our system of approximately 4,000 AMEs across the country, emphasize the importance of good decision-making before flying. We have many brochures that provide guidance about issues such as medications, fatigue, vision, and spatial disorientation among many others. We always advise pilots to check with the FAA or their AME if they have any concerns, and to have their private physicians and pharmacists check with their AME if there is any uncertainty about medical status before flying. By way of example, our pilot safety brochure entitled “Medications and Flying” emphasizes the importance of fully understanding an existing or underlying medical condition and the potential for adverse reactions or side effects of medications. This brochure advises pilots of the following:

- If you must take over-the-counter medications:
- Read and follow the label directions
- If the label warns of significant side effects, do not fly after taking the medication until at least two dosing intervals have passed. For example, if the directions say to take the medication every 6 hours, wait until at least 12 hours after the last dose to fly.

- Remember that you should not fly if the underlying condition that you are treating would make you unsafe if the medication fails to work.

- Never fly after taking a new medication for the first time.

- As with alcohol, medications may impair your ability to fly—even though you feel fine.

- If you have questions about a medication, ask your aviation medical examiner.

- When in doubt don't fly.

Adding a specific reporting requirement for our system of approximately a half million pilots would be difficult to implement and hard to enforce. There are no apparent adverse trends that would indicate a need for a specific reporting requirement. Adding a specific reporting requirement would require further rulemaking, new forms, increased paperwork and recordkeeping requirements, and further guidance to pilots and to AMEs. The FAA also notes that a modification for current ICAO Recommended Practice 1.2.6.1.1 (referenced above) is in the planning stages that would remove language that indicates a decrease in medical fitness of more than 20 days should be reported.

National Driver Registry Access

At the time of application for FAA medical certification, individuals must provide express consent to grant the FAA the right to review their NDR records. This information allows the FAA to check applicants' driving records for any instances of substance abuse and dependence disorders which may provide cause for denying a medical certificate.

The NTSB commented that "an unintended effect of extending the time interval between examinations might be to increase the interval between NDR inquiries." The CAMA stated that "if the examination frequency is extended to a 60-month period, it would be possible for an airman to receive a DWI and have it dropped from the NDR database before presenting for their next required examination." The NTSB indicated that the FAA should "require policy changes as necessary to ensure an appropriate frequency of NDR database evaluations that is no less than currently performed."

Currently, on Item 20 of FAA Form 8500-8, Application for Airman Medical Certificate, an applicant gives express consent for FAA to access his or her NDR records as part of the evaluation for a medical certificate. Such consent is required by the National Driver Registry Act, which

provides that the FAA's access to the NDR records be made upon an express request from the medical certificate applicant to search his or her driving records. With the applicant's consent, the FAA is authorized to obtain a single, 3-year look-back of the applicant's driving records. As some commenters noted, adoption of the proposal to extend the duration of certain medical certificates from 3 to 5 years would result in a situation where the FAA would not obtain the applicant's NDR records for the first 2 years of the 5-year period prior to the next application for a medical certificate. This reality, however, is not sufficiently problematic to justify abandoning the proposal for a number of reasons.

First and most importantly, the medical certification process, including the duration of a medical certificate to engage in specific aviation activities, should be based on appropriate medical information and judgment, not on the availability of a particular compliance tool to cross-match information.

Second, even as a compliance tool, NDR access does not cover all piloting activities. Glider and balloon piloting, as well as operation of an ultralight vehicle under 14 CFR Part 103, do not require medical certification, and thus there is no NDR access undertaken. Similarly, sport piloting does not require a medical certificate if an individual chooses to use a U.S. driver's license as a medical qualification.

Third, current regulations obligate pilots to provide the FAA with a written report of any motor vehicle action within 60 days of the action. This includes any conviction related to the operation of a motor vehicle while intoxicated or impaired by alcohol or a drug, as well as any action taken by the State to cancel, suspend, or revoke a license to operate a motor vehicle based on intoxication or impairment.

As required under long-standing § 61.15(e) reporting requirements, all medical certificate holders must provide "a written report of each motor vehicle action to the FAA." The intent of this requirement is explained in detail to pilots under "Frequently Asked Questions" on the FAA Web site. All pilots must send a Notification Letter to the FAA's Security and Investigations Division within 60 calendar days of the effective date of an alcohol-related conviction or administrative action. Each event, conviction, or administrative action, requires a separate Notification Letter.

The inability to reach back to the fourth and fifth year of the prior 5-year period through the NDR would have an impact only if the individual had

violated the reporting requirements. The failure to have reported the information to the FAA would itself be a violation that could lead to the suspension or revocation of the individual's pilot certificate. Thus, there are substantial incentives to provide the information.

Fourth, the FAA is considering seeking a statutory change to permit a 5-year access period through the NDR. At the time of the original statute in the late 1980s that gave the FAA a 3-year period of access to the NDR, the period authorized exceeded the duration of all classes of medical certificates issued by the FAA. Later legislative action under the Pilot Records Improvement Act of 1996 authorized a 5-year access to the NDR in the context of air carrier operations. In light of the change to the duration of certain medical certificates made by this final rule, the FAA believes a corresponding change to NDR access would receive substantial support by the Congress.

Unintended Effects of Amending § 61.23(d): Medical Certificates: Requirement and Duration

Some commenters requested clarification regarding the intent of the regulatory language in the proposed § 61.23(d) table.

The National Air Transport Association (NATA) commented that the proposal indicates the specified period of duration on a medical certificate is applied "from the date of examination." According to NATA, however, in some cases the medical certificate is not issued on the same day as the examination. The medical certificate may be issued at a later date after further review is conducted. NATA stated that duration should be calculated from the date of issuance, not the date of examination. "This is currently how expiration dates are typically determined, although it is not specified in the regulations."

According to another commenter: "for some pilots around age 40, the proposed rules actually reduce the duration of some medical certificates and increase the burden of compliance." The commenter indicated that, under existing § 61.23(d), the age at examination sets duration while under proposed § 61.23(d), the age at operation sets duration. The commenter interpreted this to mean that "a medical used for third-class operations that is obtained shortly before the 40th birthday will expire in 24 months under the proposed rules instead of 36 months under the existing rules." He stated: "For example, a pilot born June 1, 1965, gets a third-class medical on May 15, 2005. Under the current rule, this

expires on May 31, 2008, but under the proposed rule, the expiration date will be May 31, 2007.”

One commenter indicated that the second column of the proposed table for § 61.23(d) is confusing and suggested that it be modified to read “And you are at the date of the examination” rather than “And you are.”

The FAA’s intent on the duration of medical certificates has not changed. As specified in the preamble to the proposal, these standards are applied “according to the date of examination placed on the medical certificate and in accordance with duration periods specified under § 61.23(d).” An FAA medical certificate lists only a “Date of Examination,” not a date of issuance and duration standards are applied according to the date of examination placed on the medical certificate unless otherwise limited, as indicated under the section of the certificate entitled “Limitations.” Each medical certificate must bear the same date as the date of medical examination regardless of the date the certificate is actually issued. To respond to commenters, the FAA has revised the § 61.23(d) table to better clarify its intent.

The new duration periods will be effective the day this rule is published and will affect current medical certificates holders. First- and third-class medical certificate holders, who were under age 40 on the date of the application of their medical certificate, will be covered by the new, longer durations established under § 61.23(d). To determine the duration of one’s medical certificate, one should examine two pertinent dates displayed on each medical certificate: The date of the applicant’s birth, which determines the applicant’s age at the time of the application, and the date of the applicant’s medical examination. This means, for example, if you were under age 40 at the time of the application and you hold a first-class medical certificate with a date of examination dating back 5 months prior to the adoption of this provision of the final rule, then your medical certificate for airline transport pilot operations will expire according to the new annual standard and not the current 6-month standard. Using another example, if you were under age 40 at the time of the application and you hold a third-class medical certificate, then your medical certificate for private or recreational operations will expire according to the new 5-year standard and not the current 3-year standard. Affected first- and third-class medical certificate holders must look at the date of examination on their existing medical

certificate and recalculate duration as set forth under new § 61.23(d).

In addition, it should be noted that the “Conditions of Issue” on the reverse side of the existing medical certificate (FAA Form 8500–9) for affected first- and third-class medical certificate holders no longer will be accurate for certain medical certificate holders once this rule becomes effective because existing § 61.23 duration standards are referenced. The FAA will be using new medical certificates with updated “Conditions of Issue” on the reverse side of the medical certificate following rule issuance. Until such time as you renew your medical certificate, therefore, you should be aware of these outdated “Conditions of Issue” on the reverse side of your existing medical certificate. You should carry a copy of the new duration standards with you when you fly, especially if you fly internationally, in order to demonstrate that the duration of your existing medical certificate is in compliance with new FAA medical certificate duration standards.

Duration of a Medical Certificate When Exercising Sport Pilot Privileges (When You Choose To Medically Qualify With an FAA Medical Certificate Rather Than a U.S. Driver’s License)

A commenter indicated that proposed and existing § 61.23(d) do not address individuals who may choose to hold a medical certificate rather than use their U.S. driver’s license to medically qualify to exercise sport pilot privileges. This commenter holds a first-class medical certificate and will soon stop flying professionally. He plans to maintain a current FAA first-class medical certificate but will be exercising sport pilot privileges only. This commenter requested that the FAA clarify in the final rule the intended duration period of a medical certificate when used as medical qualification to exercise sport pilot privileges rather than a U.S. driver’s license.

The FAA believes that the comment has merit and has adjusted § 61.23(d) accordingly.

Comments Beyond the Scope of the Notice

The FAA received comments requesting changes beyond what was proposed. One commenter requested extended duration on a second-class medical certificate and others suggested extended duration for individuals over, as well as under, age 40. Further, some commenters asked that recreational pilots be allowed to medically qualify using a U.S. driver’s license in lieu of an FAA medical certificate.

All these proposed changes are beyond the scope of the proposal.

Existing U.S. medical certificate duration standards for commercial pilots under age 40 in a multi-crew setting currently are the same as the ICAO standards; therefore, the FAA did not propose a change to FAA second-class medical certificate duration standards. Proposing or adopting such a change would create a difference with existing international standard. The FAA proposed to extend duration and limit it to under-age-40 individuals for the same reason. Extending the duration any further would put the United States out of compliance with international standards, and we have no experience or basis to support doing so at this time. Today’s action is based, in part, on international experience and on 10 years of FAA experience with extended duration on third-class medical certificates (from 2 years to 3 years) for individuals under age 40.

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.

Related Activity

Student Pilot Certificate Duration

On February 7, 2007, the FAA issued a proposal that would amend, in part, existing § 61.19(b) to extend the duration of a student pilot certificate from 24 months to 36 months for individuals under age 40 [72 FR 5806]. Subsequently this proposed action was issued to extend the duration of medical certificates. The FAA received comments to both proposals that support extending the duration of a student pilot certificate. The FAA will take these comments into consideration and dispose of them in the final rule that will address the February 7, 2007 proposal.

ICAO Audit

ICAO, the aviation wing of the United Nations, audited the United States Government’s civil aviation safety oversight system from November 5–19, 2007, as part of the Universal Safety Oversight Audit Program (USOAP). The

ICAO USOAP teams assess whether a signatory state meets international aviation standards. The audit is very comprehensive and part of the focus is on licensing systems and keeping them aligned with international aviation standards.

ICAO findings for many signatory states, including the United States, have revealed a need to revise licensing systems to ensure conformance with ICAO Standards and Recommended Practices. Specifically, ICAO recommends endorsements on licenses for any person holding a license who does not satisfy in full the conditions set forth in international standards. These individuals must have endorsed on or attached to their license a complete enumeration of the particulars in which they do not satisfy such conditions.

In order to comply with our international obligations to ICAO, the FAA has determined that affected persons, those who have been granted an Authorization for Special Issuance of a Medical Certificate (Authorization) or a Statement of Demonstrated Ability (SODA) must carry their Authorization or SODA with them when exercising pilot privileges. In order to satisfy this ICAO obligation, the FAA has amended existing § 67.401(j) accordingly.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted a copy of the amended information collection requirements in this final rule to the Office of Management and Budget for its review. The paperwork burdens and cost impact associated with revising, reprinting, and re-distributing this form, as described in the proposal, have been addressed and no longer apply as a cost of the rule. OMB approved the collection of this information and assigned OMB Control Number 2120-0034.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices to the maximum extent practicable. The intent of this final rule, in part, is to come into compliance with existing ICAO medical assessment duration standards. Therefore, this final rule will not create any differences with ICAO.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 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. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96-39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this final rule: (1) Has benefits that justify its costs, (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866, (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

This rule extends the duration of first- and third-class medical certificates for certain individuals. A first-class medical certificate is required when exercising airline transport pilot privileges and at least a third-class medical certificate when exercising private pilot privileges. Certain conforming amendments to

medical certification procedures and some general editorial amendments also are adopted. The intent of this action is to improve the efficiency of the medical certification program and service provided to medical certificate applicants. Over 10 years, this final rule is estimated to generate \$91.7 million (\$68.9 million, discounted) of cost-savings.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) (Pub. L. 96-354) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will not impact small entities. It will impact primarily first- and third-class medical certificate holders who are expected to save about \$300.00 each time that they do not have to renew their medical certificates. Consequently, as the Acting Administrator of the Federal Aviation Administration, I certify that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96-39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary

obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it will have only a domestic impact and therefore no effect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The FAA currently uses an inflation-adjusted value of \$136.1 million in lieu of \$100 million. This final rule does not contain such a mandate. The requirements of title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Good Cause for Immediate Adoption of § 61.23(d)

Section 553(d) of the Administrative Procedures Act requires that rules become effective no less than 30 days after their issuance. Paragraph (d)(1) allows an agency to make a rule effective immediately, however, if the agency provides good cause for immediate adoption. The FAA finds that good cause exists for immediate adoption of the provisions of § 61.23(d) of this final rule. Adopting § 61.23(d) immediately—on the date of publication, rather than 30 days after issuance—prevents individuals whose medical certificate might expire within that 30-day interim from having to renew a medical certificate that otherwise may have remained valid if not for the 30-day effective date requirement.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation Safety, and Reporting and recordkeeping requirements.

14 CFR Part 65

Airmen other than flight crewmembers.

14 CFR Part 67

Aircraft, Airmen, Alcohol abuse, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements.

14 CFR Part 183

Aircraft, Airmen, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Amend § 61.23 by revising paragraph (d)(1) to read as follows:

§ 61.23 Medical certificates: Requirement and duration.

* * * * *

(d) *Duration of a medical certificate.*
(1) Use the following table to determine duration for each class of medical certificate:

If you hold	And on the date of examination for your most recent medical certificate you were	And you are conducting an operation requiring	Then your medical certificate expires, for that operation, at the end of the last day of the
(i) A first-class medical certificate.	(A) Under age 40	an airline transport pilot certificate	12th month after the month of the date of examination shown on the medical certificate.
	(B) Age 40 or older	an airline transport pilot certificate	6th month after the month of the date of examination shown on the medical certificate.
	(C) Any age	a commercial pilot certificate or an air traffic control tower operator certificate.	12th month after the month of the date of examination shown on the medical certificate.
	(D) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.

If you hold	And on the date of examination for your most recent medical certificate you were	And you are conducting an operation requiring	Then your medical certificate expires, for that operation, at the end of the last day of the
(ii) A second-class medical certificate.	(E) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.
	(A) Any age	a commercial pilot certificate or an air traffic control tower operator certificate.	12th month after the month of the date of examination shown on the medical certificate.
	(B) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.
(iii) A third-class medical certificate.	(C) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.
	(A) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.
	(B) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.

* * * * *

■ 3. Amend § 61.29 by revising paragraph (b) to read as follows:

§ 61.29 Replacement of a lost or destroyed airman or medical certificate or knowledge test report.

* * * * *

(b) A request for the replacement of a lost or destroyed medical certificate must be made by letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 4. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 5. Amend § 65.16 by revising paragraph (c) introductory text to read as follows:

§ 65.16 Change of name: Replacement of lost or destroyed certificate.

* * * * *

(c) An application for a replacement of a lost or destroyed medical certificate is made by letter to the Department of Transportation, Federal Aviation Administration, Aerospace Medical Certification Division, Post Office Box 26200, Oklahoma City, OK 73125,

accompanied by a check or money order for \$2.00.

* * * * *

PART 67—MEDICAL STANDARDS AND CERTIFICATION

■ 6. The authority citation for part 67 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 7. Revise § 67.3 to read as follows:

§ 67.3 Issue.

A person who meets the medical standards prescribed in this part, based on medical examination and evaluation of the person's history and condition, is entitled to an appropriate medical certificate.

■ 8. Add § 67.4 to read as follows:

§ 67.4 Application.

An applicant for first-, second- and third-class medical certification must:

(a) Apply on a form and in a manner prescribed by the Administrator;

(b) Be examined by an aviation medical examiner designated in accordance with part 183 of this chapter. An applicant may obtain a list of aviation medical examiners from the FAA Office of Aerospace Medicine homepage on the FAA Web site, from any FAA Regional Flight Surgeon, or by contacting the Manager of the Aerospace Medical Education Division, P.O. Box 26200, Oklahoma City, Oklahoma 73125.

(c) Show proof of age and identity by presenting a government-issued photo identification (such as a valid U.S. driver's license, identification card issued by a driver's license authority, military identification, or passport). If an applicant does not have government-issued identification, he or she may use non-photo, government-issued identification (such as a birth certificate or voter registration card) in conjunction with photo identification (such as a work identification card or a student identification card).

■ 9. Amend § 67.401 by revising paragraph (j) to read as follows:

§ 67.401 Special issuance of medical certificates.

* * * * *

(j) An Authorization or SODA granted under the provisions of this section to a person who does not meet the applicable provisions of subparts B, C, or D of this part must be in that person's physical possession or readily accessible in the aircraft.

■ 10. Revise § 67.405 to read as follows:

§ 67.405 Medical examinations: Who may perform?

(a) *First-class.* Any aviation medical examiner who is specifically designated for the purpose may perform examinations for the first-class medical certificate.

(b) *Second- and third-class.* Any aviation medical examiner may perform examinations for the second- or third-class medical certificate.

§ 67.411 [Removed and Reserved]

■ 11. Remove and reserve § 67.411.

■ 12. Revise § 67.413 to read as follows:

§ 67.413 Medical records.

(a) Whenever the Administrator finds that additional medical information or history is necessary to determine whether you meet the medical standards required to hold a medical certificate, you must:

(1) Furnish that information to the FAA; or

(2) Authorize any clinic, hospital, physician, or other person to release to the FAA all available information or records concerning that history.

(b) If you fail to provide the requested medical information or history or to authorize its release, the FAA may suspend, modify, or revoke your medical certificate or, in the case of an applicant, deny the application for a medical certificate.

(c) If your medical certificate is suspended, modified, or revoked under paragraph (b) of this section, that suspension or modification remains in effect until you provide the requested information, history, or authorization to the FAA and until the FAA determines that you meet the medical standards set forth in this part.

PART 183—REPRESENTATIVES OF THE ADMINISTRATOR

■ 13. The authority citation for part 183 continues to read as follows:

Authority: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40113, 44702, 44721, 45303.

■ 14. Amend § 183.11 by revising paragraph (a) to read as follows:

§ 183.11 Selection.

(a) The Federal Air Surgeon, or his or her authorized representatives within the FAA, may select Aviation Medical Examiners from qualified physicians who apply. In addition, the Federal Air Surgeon may designate qualified forensic pathologists to assist in the medical investigation of aircraft accidents.

* * * * *

■ 15. Revise § 183.15 to read as follows:

§ 183.15 Duration of certificates.

(a) Unless sooner terminated under paragraph (b) of this section, a designation as an Aviation Medical Examiner or as a Flight Standards or Aircraft Certification Service Designated Representative as described in §§ 183.21, 183.23, 183.25, 183.27, 183.29, 183.31, or 183.33 is effective until the expiration date shown on the document granting the authorization.

(b) A designation made under this subpart terminates:

(1) Upon the written request of the representative;

(2) Upon the written request of the employer in any case in which the recommendation of the employer is required for the designation;

(3) Upon the representative being separated from the employment of the employer who recommended him or her for certification;

(4) Upon a finding by the Administrator that the representative has not properly performed his or her duties under the designation;

(5) Upon the assistance of the representative being no longer needed by the Administrator; or

(6) For any reason the Administrator considers appropriate.

Issued in Washington, DC, on July 10, 2008.

Robert A. Sturgell,
Acting Administrator.

[FR Doc. E8–16911 Filed 7–23–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****18 CFR Part 33**

[Docket No. RM07–21–001; Order No. 708–A]

Blanket Authorization Under FPA Section 203

Issued July 17, 2008.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order on rehearing.

SUMMARY: In this order on rehearing, the Federal Energy Regulatory Commission (Commission) affirms its determinations in part and grants rehearing in part of Order No. 708. Order No. 708 amended the Commission's regulations to establish blanket authorizations under section 203 of the Federal Power Act to facilitate investment in the electric industry and, at the same time, ensure that public utility customers are adequately protected from any adverse effects of such transactions.

EFFECTIVE DATES: This final rule; order on rehearing will become effective August 25, 2008.

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