

Exemption No. 7998

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC 20591

In the matter of the petition of

AIRCRAFT OWNERS AND PILOTS
ASSOCIATION

Regulatory Docket No. FAA-2003-14300

for an exemption from §§ 61.3(c) and
61.23(a)(3)(ii) and (iii) of Title 14,
Code of Federal Regulations

DENIAL OF EXEMPTION

By letter dated January 16, 2003, Mr. Andrew V. Cebula, Senior Vice President, Government and Technical Affairs, Aircraft Owners and Pilots Association (AOPA), 421 Aviation Way, Frederick, Maryland 21701-4798 petitioned the Federal Aviation Administration (FAA) on behalf of AOPA for an exemption from §§ 61.3(c) and 61.23(a)(3)(ii) and (iii) of Title 14, Code of Federal Regulations (14 CFR). The proposed exemption, if granted, would permit each AOPA member to conduct recreational pilot flight activities using a current and valid U.S. driver's license instead of an FAA-issued medical certificate.

The petitioner requests relief from the following regulations:

Section 61.3(c) prescribes, in pertinent part, that except as provided for in paragraph (c)(2) of this section, a person may not act as pilot in command (PIC) unless that person has a current and appropriate medical certificate that has been issued under 14 CFR part 67 or other documentation acceptable to the Administrator, which is in that person's physical possession or readily accessible in the aircraft.

Section 61.23(a)(3)(ii) prescribes, in pertinent part, that a person must hold at least a third-class medical certificate when exercising the privileges of a recreational pilot certificate.

Section 61.23(a)(3)(iii) prescribes, in pertinent part, that a person must hold at least a third-class medical certificate when exercising the privileges of a student pilot certificate.

The petitioner supports its request with the following information:

The petitioner states that AOPA is a not-for-profit corporation that is the largest general aviation organization in the world composed of aircraft owners and pilots who are dedicated to the continued growth and welfare of the general aviation industry. The petitioner states that AOPA is in a unique position to administer a test program. The petitioner contends that if the FAA grants the proposed exemption, it would further general aviation growth and viability. In addition, AOPA has in place a nationwide network of volunteers at more than 1,400 general aviation airports who are in contact with pilots and the general public and tasked with promoting general aviation programs.

The petitioner states that AOPA is requesting relief from the regulations to permit AOPA members to exercise privileges of a recreational pilot certificate using a current and valid U.S. driver's license instead of an FAA-approved medical certificate to establish a medical research baseline. The petitioner further states that, using the information collected, the FAA can make a determination for allowing the use of a U.S. driver's license to meet the medical standard for exercising recreational pilot privileges.

The petitioner states that the proposed exemption, if granted, would reduce the costs associated with pursuing and maintaining a recreational pilot certificate. The petitioner indicates that a grant of exemption directly would affect individuals holding a student pilot certificate, seeking a recreational pilot certificate, holding a recreational pilot certificate, providing flight training, and others holding a pilot certificate who may choose to exercise the privileges of a recreational pilot under the authority being requested by this petition.

The petitioner states that, as outlined below, AOPA believes that recreational pilots could safely operate aircraft as PIC while performing flight as defined in § 61.101, using a U.S. driver's license as verification of their flight medical status. The petitioner argues that this should also apply to student pilots seeking a recreational pilot certificate. The petitioner notes that in AOPA's comments to a 1995 notice of proposed rulemaking (NPRM) to modify requirements contained in parts 61 and 67, it submitted a comprehensive analysis of the AOPA Air Safety Foundation (ASF) accident and incident database that demonstrated an extremely low (1.9 percent) percentage of accidents where medical factors contributed to the accident as determined by the National Transportation Safety Board. The petitioner further states that AOPA's ASF analysis showed that the majority of the medically related aviation accidents were not attributable to predictable conditions or conditions that could be uncovered by medical

examination. The petitioner also states that AOPA asserted that the accident data clearly shows that the FAA medical standards go far beyond what is necessary to ensure safety in air commerce and that the regulations should be relaxed.

The petitioner contends that it is important that this information be augmented by additional research to establish further a basis for replacing the FAA's third-class medical certificate requirement for recreational pilots with a requirement for a current and valid U.S. driver's license. The petitioner states that AOPA is assisting the FAA in obtaining additional bases for a recreational pilot to be able to use a U.S. driver's license as an FAA-accepted medical certificate. The petitioner states that AOPA supports the use of a U.S. driver's license as an FAA-acceptable medical certificate under the proposed sport pilot rule. The petitioner also states that AOPA requested that the FAA modify the requirements for the recreational pilot certificate to permit use of a current and valid U.S. driver's license to meet the medical requirements, similar to that proposed by the FAA for the new sport pilot certificate.

The petitioner notes that on July 15, 2002, AOPA submitted a petition for rulemaking to establish the U.S. driver's license as the medical certification requirement for recreational pilot privileges under §§ 61.3(c) and 61.23(a)(3)(ii) and (iii).

The petitioner states that that petition for rulemaking formalized AOPA's comments on the FAA's sport pilot proposal. The petitioner also states that in AOPA's petition, it cited a comprehensive statistical analysis to support its recommendation. The petitioner states that AOPA's ASF data show no meaningful correlation between general aviation accidents and medical certificates. The petitioner contends that medical incapacitation is not a significant cause of accidents, regardless of whether a medical certificate is required.

The petitioner notes that on September 13, 2002, the FAA denied AOPA's petition to allow pilots to use a U.S. driver's license as a medical certificate to exercise recreational pilot privileges, without an opportunity for public comment. The petitioner provides the following information about the FAA response to its petition: (1) In its denial, the FAA cited other more pressing rulemaking priorities; (2) the FAA stated it would be premature to actively consider your proposal for recreational pilots while the issue is still under consideration for application to sport pilots; (3) the FAA acknowledged that its sport pilot proposal and AOPA's recreational pilot proposal addressed similar issues but stated that the AOPA petition was "premature;" and (4) the FAA stated that it wanted to evaluate the operations of sport pilots using a valid U.S. driver's license instead of a medical certificate before it extended the option to recreational pilot privileges. The petitioner states that AOPA met with FAA officials following the denial and that the FAA indicated the idea was not rejected on its merits.

The petitioner states that in discussions with the FAA, AOPA learned that one of the FAA's reasons for denying AOPA's petition was that the request was considered to be

too broad in scope. The petitioner states that the FAA felt that there is not enough baseline medical data to allow full implementation of a U.S. driver's license medical standard for exercising recreational pilot privileges. The petitioner contends that this petition for exemption seeks to address this FAA concern and establish the necessary baseline medical research information. The petitioner maintains that the information obtained through the proposed exemption should allow the FAA to make a decision to allow the use of a U.S. driver's license for recreational pilots.

The petitioner notes that in the final rule for recreational pilot certification the FAA stated that, "After extensive review and deliberation, the FAA has determined that there is no basis for deleting the third-class medical requirement for recreational pilots." Therefore, the petitioner states that AOPA contends that this research is needed for an airman exercising the privileges of a recreational pilot certificate rather than simply relying on the use of the pending sport pilot certificate and associated light-sport aircraft. The petitioner notes that while recreational pilots are subject to many of the operational limitations applied to sport pilots, they may operate an aircraft certificated in the "normal" category. The petitioner states that, in general, to qualify for a normal category airworthiness certificate, a manufacturer must demonstrate to the FAA (through design, engineering, testing, and other data) that the aircraft meets the design and performance criteria in applicable 14 CFR sections.

The petitioner states that, in comparison, normal category aircraft are much more capable than light-sport aircraft, and are thus subject to much more stringent airworthiness standards. The petitioner notes that, by definition, a light-sport aircraft is limited to a maximum of 1,232 pounds, 1 passenger, a single engine, and a maximum speed of 115 knots. The petitioner indicates, however, that normal category aircraft, certificated under 14 CFR part 23 or a comparable foreign certification regulation, have much higher performance limitations.

The petitioner notes that AOPA is requesting this research exemption be granted for a period of 2 years providing an opportunity for review and renewal, or rulemaking action at the end of the 2-year period. The petitioner further notes that the details of AOPA's research plan are outlined in this petition.

The petitioner contends that AOPA has the resources and infrastructure in place to administer the proposed exemption. The petitioner states that AOPA's Board of Aviation Medical Advisors (BAMA) is a unique organization of industry experts who provide expert advice and counsel to AOPA on important general aviation medical issues and aeromedical policy. The petitioner states that this AOPA board includes a former chief of the FAA Civil Aeromedical Institute, former and current presidents of the Civil Aviation Medical Association, current and former civil and military chief flight surgeons, senior aviation medical examiners, and other aviation medical experts. The petitioner notes that in addition to advising AOPA staff, the BAMA board serves

as a resource for AOPA members on case-specific aeromedical issues, both through AOPA's toll-free aeromedical information hotline, and at panel discussions held at AOPA events throughout each year.

The petitioner states that AOPA's Aviation Services and Aviation Medical Certification departments are staffed by more than 20 professionals (including 18 certificated pilots) and give members access to general aviation's most comprehensive knowledge base via the AOPA Web site and 800 number. The petitioner also states that AOPA's dedicated medical staff responds to calls from more than 1,000 members a month regarding information about pilot medicals. The petitioner further states that AOPA keeps abreast of FAA medical certification policy through frequent contact with the FAA's Office of Aviation Medicine, the Federal Air Surgeon's office, and the Aeromedical Certification Division.

The petitioner notes that throughout the course of a typical year, AOPA's medical certification specialists are involved in reviewing more than 20,000 cases. The petitioner states that these specialists help countless members with questions ranging from color blindness and high blood pressure, to kidney stones and heart disease. The petitioner contends that AOPA's staff's unique level of expertise has enabled AOPA to work closely with the FAA on AOPA members' behalf concerning issues of certification and regulatory policy.

The petitioner provides the following partial list of AOPA's medical resources that the petitioner says would be used in support of this research request:

- **FAA-accepted medications**—AOPA maintains an up-to-date listing of FAA-approved medications.
- **Medical online status request**—AOPA has a form online that allows members to provide AOPA with the necessary information to check the status of a medical application.
- **Medical subject reports**—AOPA maintains a comprehensive database of subjects of medical importance to pilots.
- **AOPA Pilot's Guide to Medical Certification**—AOPA's publication on medical certification.
- **TurboMedical**—A Web-based tool to help pilots prepare to apply for medical certificates.

The petitioner states that for more than 50 years, the ASF has set the standard in the areas of pilot safety and training. The petitioner indicates that AOPA is the nation's

largest nonprofit organization dedicated exclusively to providing aviation education and safety programs for general aviation. The petitioner notes that, annually, the ASF communicates with more than 270,000 participants in its education and safety program. The petitioner states that the mission of ASF is to promote general aviation safety. The petitioner further states that ASF actively promotes the following activities:

- Maintaining a national aviation safety database that contains NTSB reports on general aviation accidents since 1982. The petitioner notes that every year ASF publishes its Nall Report, which examines all accidents from the previous year and provides guidance on what the FAA, industry, and individual pilots can do to lower their risk.
- Performing accident trend research to focus ASF resources on the principal causes of accidents.
- Producing and disseminating aviation education and training videos, pamphlets, books, and newsletters to increase safety awareness.
- Conducting specialized aviation training courses for students and instructors. The petitioner notes that ASF recertificates more flight instructors than any other organization, including the FAA.
- Providing free public service aviation safety seminars. The petitioner notes that last year ASF conducted more than 250 free safety seminars, which reached more than 35,000 pilots.

The petitioner indicates that it has the technical resources to adequately oversee the proposed exemption. The petitioner states that AOPA's aviation services 800 number is a call center that answers technical, operational, and regulatory questions from pilots. The petitioner further states that, this call center responds to more than 94,000 phone calls and 37,000 e-mail messages from AOPA pilots annually. The petitioner also states that AOPA's Information and Technology (IT) department employs close to 20 specialists and is in operation 24 hours a day. The petitioner further notes that AOPA's IT specialists have extensive experience in managing FAA student and pilot databases and tracking FAA aeromedical and pilot certificate data. The petitioner contends that this department already has the data needed to match up pilot and medical certificates as well as other information to develop the baseline pilot group for the proposed exemption. The petitioner states that data security is a cornerstone of AOPA's IT infrastructure and AOPA has resources and experience needed to securely manage and disseminate information electronically on a "real-time" basis.

The petitioner contends that AOPA's ability to manage this data securely and in a timely manner serves to validate the public interest of this petition. The petitioner

states that AOPA intends to administer the proposed exemption using our technical expertise and monitor/forward data on a quick, as-needed basis, making the data truly valid, current, and useful. The petitioner states that AOPA's IT capability is critical, not only for compiling accurate research data on the exemption, but also for national security interests. The petitioner states that since the attack of September 11, 2001, the Federal Government has an increased interest in its ability to track pilot certification records to ensure no terrorist threat exists. The petitioner points out that because AOPA's extensive pilot database is more accurate and up-to-date than the FAA's, AOPA easily can provide student start and tracking information from this research project to the Transportation Security Administration (TSA) for comparison to its watch lists.

The petitioner states that the original proposal for the recreational pilot certificate was initiated by AOPA in 1978, when AOPA submitted a petition seeking the creation of a new category of pilot certificate intended to reduce the cost and procedural barriers to flight training. The petitioner states that on June 25, 1985, more than 7 years after AOPA first submitted its petition, the FAA published an NPRM titled "Certification of Student Recreational, Recreational, Student Private and Private Pilots" (Docket No. 24695). The petitioner notes that this was the introduction of the new recreational pilot certification process. The petitioner states that the proposed requirements for the recreational pilot certificate were enough to ensure safety, but not as extensive as those required for a private pilot certificate. The petitioner notes that in return for these lessened requirements, strict operational limits are imposed. The petitioner further notes that the recreational pilot NPRM solicited recommendations for medical requirement alternatives to the third-class medical certificate and AOPA recommended self-certification, similar to the requirement allowed for glider pilots. The petitioner notes that in March 1989, the FAA published the recreational pilot final rule but did not adopt AOPA's recommendation and retained the requirement for a third-class medical certificate.

The petitioner states that in 1985, as now, AOPA's position on the medical requirements for recreational pilot was based on solid statistical evidence that medical incapacitation is not a significant causal factor in general aviation accidents. The petitioner states that this is also true for the segments of general aviation that currently self-certify medical fitness, the glider and balloon community. The petitioner notes that a recent review of balloon and glider accident data from 1990 to 2000 reveals that only two accidents occurred because of a pilot's medical condition. The petitioner contends that, from this data, it is clear that the absence of any medical certificate requirement for persons operating balloons and gliders has not resulted in a demonstrated reduction in safety.

The petitioner states that, the Aviation Rulemaking Advisory Committee (ARAC) reviewed this issue recently and determined that accident summary data from 1986

through 1992 indicated that the percentage of aviation accidents involving medical causal factors is lower for those activities that do not require medical certificates than for those activities that do. The petitioner notes that during this 7-year timeframe, ARAC indicated that there were 761 accidents in lighter-than-air aircraft and glider operations, neither of which require airman medical certification. The petitioner notes that, according to ARAC, only 1 of the 761 accidents showed a medical cause. The petitioner also notes that, for general aviation operations requiring airman medical certification, ARAC indicates there were 46,976 total accidents, 99 of which showed a medical cause. The petitioner notes that the FAA cites this data in its sport pilot NPRM and states that it believes that "medical conditions are not a significant cause of accidents in aircraft that are used for sport and recreational purposes." The petitioner states that AOPA agrees with this conclusion and believes that this medical provision should be extended to the recreational pilot community.

The petitioner notes that on March 29, 1989, the FAA published its final rule for the certification of student recreational, recreational, student private, and private pilots. The petitioner notes that in the final rule the FAA stated, "An overwhelming majority of the comments received on this issue favor "self-certification." The petitioner notes, however, that the FAA determined that there is no basis for deleting the third-class airman medical certificate requirement for recreational pilots.

The petitioner notes that data available in the National Aviation Safety Data Analysis Center (NASDAC) accident database indicate that a pilot's medical condition is rarely a causal factor in general aviation accidents. The petitioner states that a review of balloon and glider accidents contained in that database from 1990 to 2000 revealed that only two accidents occurred because of a pilot's medical condition. The petitioner contends that the absence of any airman medical certificate requirement for persons operating balloons and gliders has not resulted in a demonstrated reduction in safety.

The petitioner states that in 1995, ASF conducted a comprehensive analysis of medical causal factors in general aviation accidents. The petitioner notes that the study showed that during a 10-year period from 1982 to 1991, there were 19,925 general aviation accidents. The petitioner notes that only 379 (or about 1.9 percent) of these had any medical factors contributing to the accident as determined by the National Transportation Safety Board. The petitioner states that a closer look at these 379 accidents shows that well over two thirds were caused by the use of alcohol and/or drugs, both illicit and prescribed. The petitioner states that, while regrettable, there is no way a medical examiner, under any set of regulations or medical standards can prevent an otherwise healthy pilot from illegally operating an aircraft under the influence, which leaves only 120 medically related accidents during the 10-year period.

The petitioner states that the 120 medically related accidents breakdown as follows:

- Eighteen involved pilots who did not hold an airman medical certificate or had an airman medical certificate that was clearly invalid. The petitioner adds that no change in medical standards or increased thoroughness of an AME exam will prevent these accidents.
- Eight were labeled as medical incapacitations by investigators but the cause was not determined.
- Fifteen were related to hypoxia or carbon monoxide poisoning. Again, the petitioner contends that there is no connection with the medical certification standards.
- Eighteen were attributed to a variety of medical conditions that did not involve preexisting conditions that could have been detected by the AME at the time of certificate issuance. The petitioner notes that these included gunshot wounds, motion sickness, cold and flu symptoms, head trauma, upset stomach, and even leg cramps.
- Forty one were reportedly caused by myocardial infarctions (heart attacks). The petitioner notes that no other medical factor recurred in an accident more than one time per year.
- Two were caused by strokes.
- Four were visual deficiency.
- Eighteen were attributed to "other" organic, cardiovascular, and toxic problems.

The petitioner states that last year, ASF conducted an "ad hoc" study on the effectiveness of medical certification in preventing accidents in general aviation aircraft. The petitioner states that ASF examined 37,946 general aviation accidents from 1983 to 1999 in fixed wing aircraft that weigh less than 12,500 pounds. The petitioner states that they found that only 120 of those accidents involved pilot incapacitation that could likely have been prevented via the FAA medical certification process. The petitioner notes, therefore, that the rate of accidents caused by pilot incapacitation was .0031598 (slightly less than one third of one percent).

The petitioner states that this petition for exemption is in support of AOPA's comments and recommendations to the FAA's light-sport pilot NPRM (Docket

No. FAA-2001-11133). The petitioner states that in those comments, AOPA requested that the FAA modify the requirements for the recreational pilot certificate to permit the use of a current driver's license to meet the medical certification requirements, similar to that proposed by the FAA for the new sport pilot certificate.

The petitioner contends that a valid U.S. driver's license establishes an acceptable minimum medical standard because it validates evidence of basic health. The petitioner notes that, while the licensing processes vary from State to State, authorities typically require applicants to attest to a basic level of health and minimum vision standard. If a recreational pilot is precluded from holding a U.S. driver's license, then the pilot should not be eligible to operate an aircraft (unless the pilot obtained a third-class medical certificate). The petitioner also notes that, under § 61.53(b), if a pilot knows or has reason to know of any medical condition that would affect the pilot's ability to exercise the authority of a recreational pilot certificate, then the pilot must refrain from acting as PIC. The petitioner states that AOPA contends that this is a reasonable standard for recreational flying, which is currently used for all pilots. The petitioner also states that AOPA asserts that the data available in the NASDAC accident database indicate that medical conditions are rarely causal factors in general aviation accidents.

The petitioner states that this request is in keeping with the FAA's desire to revise recreational pilot certificate privileges to align them with the proposed operational privileges for sport pilots, thereby making the recreational pilot certificate a more viable and cheaper alternative to a private pilot certificate.

The petitioner notes that on February 5, 2002, the FAA published the NPRM titled "Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft." The petitioner notes that with this NPRM, the FAA proposed to allow this new class of airmen to use a valid U.S. driver's license to meet the minimum medical certification standard. The petitioner also notes that under the proposed sport pilot rule, the FAA states "the medical standards that permit an individual to drive an automobile in close proximity to other automobiles at high speeds provides an adequate level of safety to operate a light sport aircraft." The petitioner further notes that if the U.S. driver's license applicant cannot meet these minimum standards, the FAA states that "the individual should not operate a light sport aircraft, a more complex and demanding activity." The petitioner states that AOPA agrees that the issuance of a U.S. driver's license occurs only after the applicant demonstrates some basic level of health.

The petitioner states that AOPA is seeking the proposed exemption to conduct research, reduce the burden on citizens, reduce governmental involvement and expenditure, and ensure public safety. The petitioner contends that the proposed research activities, infrastructure, and activities available to AOPA and that would be conducted under a grant of exemption would meet all of these goals. The petitioner states that the proposed exemption serves the purpose of encouraging flight proficiency and safety,

while promoting additional flight activity and the positive economic impact that such increased activity has on all segments of general aviation. This economic impact includes increased commerce for airports, airport vendors, manufacturers of aircraft and parts, as well as service providers.

The petitioner contends that a grant of exemption is in the public interest and provides for an equivalent level of safety. The petitioner states that the safety of AOPA members, general aviation pilots, and the public is of paramount concern to AOPA. The petitioner also states that AOPA recognizes that the FAA, AOPA members, and the public must be confident that a level of safety equivalent to the current recreational pilot rules is expected throughout this research period.

The petitioner states that to determine whether operations under the proposed exemption could be conducted safely, AOPA determined that—

1. Recreational pilots operating under the proposed exemption would be made aware of the FAA medical guidelines contained in chapter 8 of the Airmen's Information Manual (AIM).
2. All pilots, regardless of type of pilot certificate held, must comply with §§ 61.14, 61.15, 61.16, 61.53, 61.56, 61.57, and 61.59, and 14 CFR §§ 91.7, 91.17, and 91.19.
3. All pilots, regardless of type of pilot certificate held, must meet the requirements of subpart B of part 61, including—
 - a. § 61.101(a)(1)—Carry no more than one passenger;
 - b. § 61.101(b)—Flight is restricted to 50 statute miles from the departure airport, unless training and a logbook endorsement has been received according to § 61.101(c);
 - c. § 61.101(d)(1)—Flight is restricted to aircraft with four or fewer seats, that is not a multiengine aircraft, has a powerplant of 180 hp or less, and does not have retractable landing gear;
 - d. § 61.101(d)(4)—Flight for compensation or hire is not authorized;
 - e. § 61.101(d)(6)—Flight is restricted to daylight hours defined as between sunrise and sunset; and
 - f. § 61.101(d)(8), (9), and (10)—Flight is restricted to an altitude of 10,000 feet mean sea level or 2,000 feet above ground level (whichever

is higher), flight or ground visibility must be 3 statute miles or greater, and the pilot must maintain visual reference with the surface.

4. All pilots operating under the proposed exemption would hold a minimum of a student or recreational pilot certificate.

The petitioner indicates that, on the basis of the accident data presented in this petition for exemption, AOPA feels that operations under a grant of exemption could be conducted in a safe manner, without creating undue risk to persons or property on the ground or to the pilot and passengers carried in each aircraft.

The petitioner states that the database created by the proposed exemption, when combined with information from other statistical analysis, including the proposed sport pilot rule would result in a baseline of research information for the FAA to make a determination on the future use of a U.S. driver's license to meet the minimum medical requirement for operating under recreational pilot privileges.

The petitioner states that under a grant of exemption—

1. AOPA would require its member pilots applying to be a part of this research project to—
 - a. Submit a copy of his or her U.S. pilot certificate.
 - b. Submit a copy of his or her U.S. driver's license issued by a State, the District of Columbia, Puerto Rico, a territory, a possession, or the Federal Government.
 - c. Sign and submit an AOPA conditions form that will outline the terms of the exemption and verify that the individual is aware of the FAA medical guidelines in chapter 8 of the AIM, the FAA drug and alcohol prevention programs outlined in parts 61 and 91, and the recreational pilot privileges and limitations listed in subpart D of part 61.
2. Upon an AOPA member's acceptance into the research program, and annually thereafter, AOPA would submit a list of participating pilots to the FAA Flight Standards Service and the TSA. The petitioner adds that the information provided to the TSA is to be used to ensure that beginning students and research participants may be compared to current watch lists for national security purposes.
3. Upon an AOPA member's acceptance into this research program, AOPA will provide an acceptance letter and a copy of the exemption to each participating

pilot that they must carry at all times when operating an aircraft under the terms of the exemption. The petitioner adds that this documentation would provide the pilot with the authority to act as PIC when operating under the terms of the exemption. The petitioner notes that the acceptance letter will serve as the pilot's authority to take the flight training required under §§ 61.56 and 61.57.

4. Recreational pilots operating under the terms of this exemption would be authorized to act as PIC within the limits of this exemption and subpart D of part 61, and each—
 - a. Must hold a current and valid U.S. driver's license. The petitioner adds that each pilot must meet any qualifying requirements of the U.S. driver's license, such as wearing corrective lenses, to operate an aircraft under the terms of the exemption;
 - b. Must not act as PIC of an aircraft if he or she knows or has reason to know of any medical condition that would make him or her unable to operate the aircraft in a safe manner;
 - c. Must not act as PIC if the U.S. driver's license is revoked, rescinded, or suspended for any reason. If a doctor treating the individual recommends that the individual not drive until completion of a treatment program or if the individual's prescription has a warning label such as "do not operate machinery," "do not drive," "may cause drowsiness," or a similar warning label, then the individual must consider his or her driver's license "suspended" under the terms of this exemption until such time as the treatment/prescription program ends;
 - d. Must maintain currency under §§ 61.56 and 61.57; and
 - e. Must provide AOPA with a semiannual report (December to May and June to November), electronic or mailed letter, indicating—
 - i. That he or she still is participating in the test program (Yes or No);
 - ii. That he or she has flown ____ hours in aircraft qualified under subpart D of part 61;
 - iii. Registration numbers (N numbers) of the aircraft flown during the reporting period;

- iv. The date of the last § 61.56 flight review and the instructor's name/certificate number;
- v. Any/all aircraft accident/incidents during the time period of the test, as well as—
 - 1. Whether he or she was involved in an accident/incident during the reporting period (Yes or No);
 - 2. The N numbers of the aircraft involved in the accident/incident; and
 - 3. The name of the investigating flight standards district office.
- 5. The FAA reserves the right to terminate participation of any pilot participant who fails to comply with the terms of this exemption. The petitioner adds that failure to submit semiannual reports to AOPA is cause for the FAA to terminate the participant from the program. The petitioner states that upon termination, the individual would be required to comply with the FAA pilot medical requirements of § 61.23 before further flight.
- 6. Upon expiration of this exemption, all participating pilots would be required to comply with the FAA pilot medical requirements of § 61.23 before further flight.

The FAA's analysis/summary is as follows:

The FAA has considered fully the petitioner's supporting information and finds that a grant of exemption would not be in the public interest. As the petitioner is aware, the FAA is currently working on a related rulemaking action for light-sport pilots that will address issues similar to those raised in this petition for exemption.

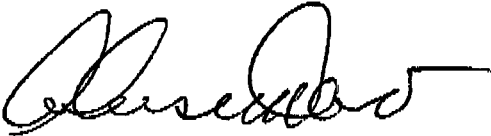
The FAA notes that the comment period for the light-sport pilot NPRM closed on May 6, 2002. The FAA received more than 2,400 comments for consideration. The rulemaking team is in the process of reviewing the comments and drafting the final rule. Therefore, the FAA finds that it would be premature to actively consider a petition for exemption for recreational pilots while the issue is still under consideration for application to sport pilots. Furthermore, the FAA is not seeking to obtain information, data, or experience beyond what we will get from operations under the sport pilot rule (if it goes out in final form authorizing the use of a driver's license in lieu of a medical certificate).

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In consideration of the foregoing, I find that a grant of exemption would not be in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701 delegated to me by the Administrator, the petition of the Aircraft Owners and Pilots Association for an exemption from 14 CFR §§ 61.3(c) and 61.23(a)(3)(ii) and (iii) is hereby denied.

Please note that in an effort to allow the public to participate in tracking the FAA's rulemaking activities, we have transitioned to the Department of Transportation's online Docket Management System (DMS) at <http://dms.dot.gov>. This new docket system enables interested persons to submit requests to, view requests on, and download requests from the DMS to comply with 14 CFR § 11.63. Please submit future requests through the DMS.

Issued in Washington, DC, on March 3, 2003



Louis C. Cusimano
Acting Director, Flight Standards Service