



# FAA's Six-Month Document Processing Delay Is Causing Problems that Santa and His Elves Cannot Solve and Will Plague Industry into 2023

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Unfortunately for all of the folks in the business aviation industry – the would-be sellers and buyers, the brokers, the escrow and title companies, the specialty lenders, and the aviation transactional lawyers – something Santa Claus cannot load onto his sleigh is more skilled bodies and technological tools to magically alleviate the long-standing paperwork processing backlog at the Federal Aviation Administration's Civil Aircraft Registry in Oklahoma City that has now stretched out to a full half-year.

This backlog doesn't stop transactions from occurring. Bills of sale, aircraft registration applications and other related documents needed to transfer title from seller to buyer still get filed with the Aircraft Registry, the security agreements and aircraft mortgages that protect a lender's interest in the collateral still go into the filing bin – but the critical distinction is that they have not actually been permanently recorded – they have simply been submitted and are "works in progress" (WIPs in FAA parlance), waiting for an examiner to review the documents and determine whether they are in proper legal form and eligible for recording. The actual recorded documents do not become a part of the FAA's permanent database until six months later – and that delay can create a number of complications.

For example, the title transfer process begins when a seller delivers an FAA Bill of Sale (an AC 8050-2 form) to a buyer, who then files the Bill of Sale, along with an Aircraft Registration Application (an AC 8050-1 form) that will, in turn, trigger the issuance of a permanent Certificate of Aircraft Registration (the AC 8050-3). The 8050-3 is the

permanent "hard card" the owner places onboard the airplane and produces for inspection if the crew is ever ramp-checked by the FAA or any other law enforcement agency. In the meantime, the owner carries a copy of the 8050-1 onboard and this allows the owner to legally operate the aircraft (inside the United States only) while waiting for the permanent certificate. This process has existed for years and generally never caused any problems because the 8050-3 was normally issued in six to eight weeks. However, the dilemma that has arisen as a result of the FAA's protracted processing delays is the fact that an 8050-1 only allows an owner to operate the airplane for 90 days before it expires and has to be renewed, a new filing which further exacerbates the FAA's processing problem. The agency has said that, effective January 1, 2024, it will allow 8050-1 forms to be used for 12 months or until, hopefully, the 8050-3 finally arrives in the owner's mailbox.

Other examples of the headaches FAA processing delays create occur when a buyer wants to put a new registration mark (the "N" number or tail number) on the aircraft being purchased or, alternatively, the selling owner wants to keep the current registration mark so that it can transfer the old tail number to a new aircraft in the future. If seller and buyer agree to such arrangements, then the buyer has to reserve a new "N" number and request that the FAA assign the new number to the aircraft. If approved, the FAA issues an Assignment of Special Registration Number (AC Form 8050-64) for the aircraft. Until the 8050-64 is issued, the buyer has to keep the old registration mark on the aircraft and, if the buyer wants to repaint the airplane in the meantime, it will have to "mask" the old number onto the fuselage and take the risk that the "N" number change will be approved. The conundrum is compounded for the seller that wants to keep its old number; the seller has to wait until the FAA approves the new registration mark before the old number becomes fair game and the seller can then submit an application to reserve it – and re-reserving the old number also takes time. This means it could conceivably be a year before a seller could put its old number on a new airplane.

Still another problem is created for operators who need letters of authorization (LOAs) to conduct certain types of flight operations under both Parts 91 and 135. LOAs, which are generally managed at the

Flight Standards District Office (FSDO) level, the local office of the FAA, often are essential to proper operation of avionics equipment and are normally tied to a particular "N" number, but if a tail number change is pending, it could hold up FSDO issuance of LOAs and effectively ground the airplane.

An aircraft owner may sometimes attempt an end run on the delay dilemmas by informing the FAA that it is planning an "international operation" and needs expedited issuance of registration, the reason being that an airplane cannot be flown outside the United States on an 8050-1. Expedited FAA approval is secured through the filing of a Declaration of International Operations (DIO), but the FAA has gotten wise to the fact that unscrupulous operators often are filing DIOs when, in fact, they have no intention of conducting the international flight they are claiming. The agency has made it clear that the intentional filing of a false DIO is a fraudulent act and, if discovered, can lead to administrative sanctions, civil penalties or even, in extreme circumstances, criminal prosecution.

The FAA's filing backlog problem has existed for years, but it grew dramatically worse during the Covid-19 pandemic when FAA document examiners were forced to work from home, denying them access to the Registry's offices and records. The FAA claims it is trying to solve the problem by hiring and training new examiners, but training itself is a process that takes time and also requires more experienced examiners to leave the files they were working on and spend days or weeks teaching new hires the ropes.

Sadly, these new examiners are not elves from Santa's workshop, arriving from the North Pole armed with magical powers and ready to hit the ground running the day after Christmas. So don't expect the FAA's document filing crisis to be solved anytime soon; it will continue well beyond the holiday season and into 2023. Happy New Year! ■

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