

**SUPPORTING STATEMENT**  
**OMB-2120-0660**

**Flight Operational Quality Assurance (FOQA) Rule**

**Justification**

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

Flight Operational Quality Assurance (FOQA) is a program for the routine collection and analysis of digital flight data from airline operations, including but not limited to digital flight data currently collected pursuant to existing regulatory provisions. By a proposed amendment to 14 CFR Part 13, the FAA would require certificate holders who voluntarily establish approved FOQA programs to periodically provide aggregate trend analysis information from such programs to the FAA.

The purpose of collecting, analyzing, aggregating, and reporting this information is to identify potential threats to safety, and to enable early corrective action before such threats lead to accidents. FOQA can provide an objective source of information for FAA decision making, including identification of the need for new rulemaking based on observed trends in FOQA data. No other source of such objective data from line operations is available. Industry and the FAA have concluded based on the experience of foreign air carriers, the results from several FAA funded studies, and input received from government-industry safety forums that wide implementation of FOQA programs is needed if a reduction in airline accident rate beyond current levels is to be achieved. A reduction in the already low accident rate is needed in order to preclude a projected growth in the number of future accidents as traffic volume increases.

Title 14, Code of Federal Regulations (14CFR), Subpart 13.401, stipulates that the FAA does not use FOQA information in punitive enforcement action against an air carrier or its employees, when that air carrier has an FAA approved FOQA program. There are no legal or administrative requirements that necessitate this rule. The rule is intended to encourage the voluntary implementation of FOQA programs in the interest of safety enhancement. The reporting requirements of the rule are intended to enable the FAA to determine whether or not FOQA programs are

achieving their intended purposes, and to provide the FAA with the benefits of airline collected FOQA information for agency use to better manage the National Aerospace System.

14CFR, Subpart 13.401 supports the Department of Transportation and FAA goals for safety improvement.

**2. Indicate how, by whom, and for what purpose the information is to be used.**

The submitted aggregate trend information will be reviewed by the FAA principal operations inspector (POI) responsible for oversight of the certificate holding respondent. The POI and his staff make use of this information to monitor operational trends, to identify areas in need of corrective action, and to verify that corrective action is effective. Other organizational elements within the FAA may also receive FOQA information specific to their respective mission areas. In general, the information would be used to provide an improved basis for agency decisions based on objective data from line operations. The FAA may also employ aggregate FOQA information to initiate remedial enforcement action, when needed.

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

Air carriers participating in the FOQA program routinely make use of state-of-the art automated electronic collection and data transmission techniques as the primary means of compliance with the reporting requirements of the proposed rule. Participating certificate holders use electronic information management technology for archiving, maintaining, and reporting aggregate data associated with the requirements of the proposed rule. This information collection is compliant with the Government Paperwork Elimination Act (GPEA).

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.**

Prior to its implementation the FAA conducted two studies which have addressed the feasibility of implementing FOQA programs in the U.S.. These studies documented that

similar information is not available from any other source, and FAA experience since implementation validates that 14 CFR, Subpart 13.401 does not entail any duplication of information reporting requirements.

**5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (item 5 of OMB Form 83-I), describe the methods used to minimize burden.**

The rule was reviewed by the FAA's Office of Policy and was determined not have a significant effect on small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

If the requested information is not collected, the FAA would not be able to ascertain that appropriate actions are being taken to correct deficiencies that impact safety, nor would the FAA be able to benefit from the use of FOQA aggregate information for agency decision making purposes. The information collection frequencies required by this rule are the minimum amount necessary and appropriate for these purposes.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2)(i)-(viii).**

There are no special circumstances consistent with 5 CFR 1320.5(d) (2) (i) - (viii) with the exception that the information collection is to be provided at least monthly in order to handle safety concerns in a timely manner.

**8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported.**

The FAA funded a study of the feasibility of FOQA implementation in the U.S. in which industry viewpoints were documented. The FAA has also conducted a FOQA Demonstration Project in cooperation with four airlines, with supplemental participation by four additional airlines. The FAA has

participated in periodic industry forums during which many airlines have provided input to the FAA regarding FOQA and associated data collection/reporting issues. Industry viewpoints and concerns obtained from these various sources are discussed in the preamble to the 14CFR, Subpart 13.401 final FOQA rule. As required by the Paperwork Reduction Act of 1995 (PRA 95), the FAA submitted a request for review of the information collection activity associated with this rule to OMB at the time the NPRM was originally published in the Federal Register soliciting comments from the public and other interested parties on the information collection and reporting requirements contained in this rule. Pursuant to this OMB renewal request, the FAA issued Federal Register notice soliciting public comments on its renewal.

A 60-Day notice for public comments was published in the Federal Register on July 12, 2006, vol. 71, no. 133, pg. 39386. No comments were received.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There is no payment or gift to respondents.

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

In the Federal Aviation Reauthorization Act of 1996, Congress included specific provisions pertinent to the release to the public of safety related information voluntarily submitted to the FAA. Specifically, the Reauthorization Act added a new section, 49 USC § 40123, to the FAA's governing statute to protect voluntarily submitted information under certain circumstances. New section 40123 provides:

- (a) In General. -- Notwithstanding any other provision of the law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that --
  - (1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of

information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) Regulations. -- The Administrator shall issue regulations to carry out this section.

By a final rule on Protection of Voluntarily Submitted Information, 14 CFR, Part 193, the FAA implemented the provisions of 49 USC § 40123. In accordance with that rule, by FAA Order 8000.81 FOQA data and aggregate data were designated as protected from disclosure under the Freedom of Information Act.

In addition, applicants may be provided confidentiality under the provision of the Privacy Act and the Privacy system of records DOT/FAA 847, Aviation Records on Individuals.

**11. Provide additional justification for any questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

There are no questions anticipated to entail matters commonly considered to be sensitive or private associated with this proposed rulemaking.

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

Number of respondents who are expected to establish FOQA program: 30

Frequency of response per respondent: Monthly

Estimated number of hours per respondent to prepare aggregate trend information to be submitted to the FAA: 1.0

Estimated annual hour burden per respondent: 12

Total estimated hours of industry burden: 360

The estimated 1.0 hour burden is the additional time required to transform the aggregate data already produced monthly by the certificate holder as part of an approved FOQA program into the appropriate form for use by the FAA.

The FAA has identified that there are approximately 30 certificate holders who are candidates to take the necessary steps to comply with the rule and gain the benefits of so doing. However, currently only nine certificate holders have established FOQA programs. Because of the benefits of FOQA participation to both safety and cost containment, it is anticipated that FOQA will be implemented on an industry wide basis in the U.S. within the next twenty years.

The certificate holder's FOQA Analyst will typically perform the actions above. Based on a cost benefit study from certificate holders with existing FOQA programs, the average burdened cost of a FOQA Analyst is \$60 per hour. Therefore, the maximum potential cost of this burden if all 30 certificate holders were to immediately participate (360 hours) is \$21,600.

**13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.**

The initial capital and start-up costs as well as those associated with annual operations, maintenance, and purchase of services components by the certificate holder will be accomplished for reasons other than to provide information or keep records for the government. Any costs over and above the latter are born by the government. Therefore, there are no costs other than those included in #12 above.

**14. Provide estimates of annualized cost to the Federal Government.**

This rule stipulates that the FAA would not use FOQA information in punitive enforcement action against an air carrier or its employees. There are no legal or administrative requirements that mandate this rule. The proposed rule merely encourages the voluntary establishment of FOQA programs by individual airlines. Voluntarily participating airlines with FAA approved programs must submit aggregate FOQA data to the FAA. The FAA has established an automated infrastructure for the acquisition, monitoring, and use of aggregate FOQA information.

**15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.**

This is a continuing reporting burden.

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

The information to be collected will not be published, and is not releasable to the public except under special circumstances as may be required under 49 U.S.C. § 40123. From time to time summaries of submitted information may be published in an NPRM to explain the need for rulemaking. The reported information will be electronically distributed within the FAA, and could be shared with other government agencies, such as the National Transportation Safety Board, as appropriate to their respective missions. The submitted information will be subject to standard statistical trend analysis and information management techniques. The duration of this program is indefinite. Once a respondent's FOQA Implementation and Operations Plan is approved by the FAA, the program may continue for an indefinite period unless the respondent elects to withdraw from further participation, or the FAA elects to terminate the respondent's participation. Given the investment required by a respondent to initiate a FOQA program, it is anticipated that most such programs, and their associated information recording and reporting requirements, will generally continue for an indefinite period.

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

FAA is not seeking approval to not display the expiration date of OMB's approval of this collection of information.

**18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

There are no exceptions identified in Item 19, OBM Form 83--  
I.

Attachments:

1. Supporting Statement
2. 30 Day Notice
3. 60 Day Notice
4. 49 USC 40123
5. 14 CFR Part 13
6. 14 CFR Part 193