

**Supporting Statement for Antidrug and Alcohol Misuse Prevention Programs
for Personnel Engaged in Specified Aviation Activities—2120-0535**

1. Explain the circumstances that make the collection of information necessary.

The FAA mandates specified aviation entities to conduct drug and alcohol testing under its regulations, Antidrug and Alcohol Misuse Prevention Programs for Personnel Engaged in Specified Aviation Activities (14 CFR Part 121, appendices I and J), 49 USC 31306 (Alcohol and controlled substances testing), and the Omnibus Transportation Employee Testing Act of 1991 (the Act).

This collection of information supports the DOT and FAA strategic goals for safety.

2. Indicate how, by whom, and for what purpose the information is to be used, and the actual use made of the information received from the current collection.

The FAA uses this information for: determining program compliance or non-compliance of regulated aviation employers, oversight planning, determining who must provide annual MIS testing information, and communicating with entities subject to the program regulations. In addition, the information is used to ensure that appropriate action is taken in regard to crew members and other safety-sensitive employees who have tested positive for drugs or alcohol, or have refused to submit to testing.

3. Describe whether the collection of information involves the use of automated or other technological collection techniques and any consideration of using information technology to reduce the burden.

In 2004, the Drug Abatement Division issued a regulation that requires part 121 and 135 certificate holders and those entities holding 145 certificates that opt to obtain antidrug and alcohol misuse prevention programs to certify their compliance by obtaining an A449 paragraph in FAA's Operations Specifications System (OPSS). Companies that possess the capability of transmitting information securely can make and amend these entries electronically. Others may call or mail/email information to be input by the FAA. Therefore, in reference to the Government Paperwork Reduction Act requirements, and as explained in the following paragraph, most submissions may be made electronically.

Line 13.b.1. of the Paperwork Reduction Act Submission form, i.e., "Percentage of these responses collected electronically" refers to responses required in the form of reports to the FAA, i.e., items 2, 10, 11, 12 and 13 on the attached table -- of these responses 60% are submitted to the FAA electronically. The remaining Paperwork Burden responses consist of recordkeeping and may be accomplished in any form (electronic or otherwise) that the respondents choose. We estimate that a similar percentage of these responses, i.e., 60%, are maintained electronically as well.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use.

No similar information exists.

5. If the collection of information impacts small businesses or other small entities, describe methods used to minimize burden.

The Drug Abatement Division reduced the paperwork burden on small businesses by simplifying the data requirements for certifying compliance and by decreasing the number of reports required.

6. Describe the consequences to Federal program or policy activities if the collection was conducted less frequently.

The data required for program certification or registration are provided only once by each regulated company and then amended only when significant program changes occur. If we were unable to update

company information, we would not be able to stay current with the status of companies we regulate. Furthermore, if we did not receive reports of positive drug or alcohol tests or test refusals by airmen, we would not be able to take critical action regarding the status of their certificates, resulting in a serious detriment to public safety.

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

The information required is not in conflict with these guidelines.

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, and the data elements to be recorded, disclosed, or reported.

Every regulation pertaining to the program has been preceded by a Notice of Proposed Rulemaking that sought public comments. All such comments were considered before final rules were published. Furthermore, the FAA published a Federal Register Notice on November 17, 2006, vol. 71, no. 222, pages 67006-67007, requesting public comments about our intention to seek Office of Management and Budget (OMB) approval of our current information collection. Comments received about previous versions of this submission were outside the purpose of the submission.

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

No payments or gifts are provided.

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

The antidrug and alcohol misuse prevention testing programs are replete with confidentiality protections for safety-sensitive workers who are tested, at every stage of testing, from random selection for testing through collection and processing of urine or breath samples, to handling, communication, and storage of the results. These protections are specified throughout the pertinent regulations, which are 49 CFR Part 40 and 14 CFR Part 121, Appendices I and J. Enforcement of these protections is a major responsibility both of the FAA Drug Abatement Program and the Department of Transportation Office of Drug and Alcohol Policy and Compliance.

As explained above, the statutory authority for these assurances of confidentiality is contained in The FAA's authority to issue rules regarding aviation safety (Title 49 USC). Subtitle VII, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Section 45102, charges the FAA with prescribing regulations to establish programs for drug and alcohol testing of employees performing safety-sensitive functions for air carriers.

11. Provide additional justification for any questions of a sensitive nature.

There are no questions of a sensitive nature.

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

November 2, 2006

Estimates Of The Hour Burden Of The Collection Of Information:
FAA Antidrug And Alcohol Misuse Prevention Programs
(Updated 2120-0535 Incorporating 2120-0689, And FR Notice Of
6/21/06)

NOTE: 2120-0685 Was Incorporated Into The Previous Version
Of 2120-0535 And Has Been Discontinued

	<u>PRA Task Item</u>	<u>Burden Hours</u>	<u>Responses (Times Performed)</u>	<u>\$ Burden</u>
1	Promulgate Policy	2,520	1,260	\$50,400
2	OpSpec Certification Or Registration	299	512	\$5,998
3	Supervisory Drug And Alcohol Training Documentation	3,063	47,667	\$61,290
4	Employee Training Documentation	16,837	261,895	\$366,745
5	Reasonable Suspicion Documentation For Drugs And Alcohol	39	616	\$792
6	Post-Accident Determination Documentation	73	1,136	\$1,461
7	Post-Accident 2-Hr. Alcohol Limit No-Test Documentation	16	253	\$326
8	Post-Accident 8-Hr. Alcohol Limit No-Test Documentation	16	248	\$319
9	SAP Return To Duty Letter For Part 67 Medical Certificate Holders	12	47	\$236
10	Refusal To Take Drug Test Report To FAA	11	46	\$231
11	Positive Drug Test Report To FAA	9	38	\$191
12	Refusal To Take Alcohol Test Report To FAA	1	6	\$31
13	Positive Alcohol Test Report To FAA	3	11	\$55
14	Non-paperwork Burden Hours From 2120-0689	217	NA	\$7,569
15	Total: Current OMB Inventory (2120-0535 as corrected and 2120-0689)	23,117	313,735	\$495,644
<u>Changes And Adjustments</u>				
	Program Change: Pre-employment/RTD Test Refusals Per FR Notice On 6/21/06	2	7	\$35
A				
B	Adjustment: Non-paperwork Burden Hours From 2120-0689	-217	NA	-\$7,569
C	Adjustment: Wage Change To \$21.00/Hour	NA	NA	-\$14,701
D	<u>Total Consolidated Request</u>	22,902	313,742	\$473,409
E	<u>Difference Between Consolidated Request And Current OMB Inventory (Line D-15)</u>	-215	7	-\$22,235
	<u>Difference Between Previous Non-Consolidated Inventory for 2120-0535 and Current Consolidated Inventory Including 2120-0689</u>	134	62,013	-\$13,147

NOTE: Figures Rounded To Nearest Whole Number

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

There are no costs other than what is listed in the attached table.

14. Provide estimates of annualized costs to the Federal Government.

- OpSpec certification or registration tracking process
- Annual report tracking and analysis
- Processing reports on drug and alcohol test refusals

Total staff hours = 3,397.67 staff hours for a total cost of \$135,709.49

This represents 3,387 hours at an average hourly rate of \$40.00, totaling \$135,480 (previously reported in 2120-0535 which incorporated the previous 2120-0685 submittal), an additional 3.67 hours at an average hourly rate of \$24.67, totaling \$90.54 (previously reported in 2120-0689), and an additional 7 hours at an average hourly rate of \$19.85, totaling \$138.95 (per FR Notice on 6/21/06).

Total contractor costs: \$21,000

Total cost to the Federal Government: \$156,709.49

15. Explain the reasons for changes in burden.

In Federal Register Vol. 71, No. 119, June 21, 2006, the FAA added the requirement to report to the FAA airman pre-employment and return-to-duty test refusals to:

“...ensure that persons who engage in substance abuse do not operate aircraft...until it is determined that these individuals can safely exercise the privileges of their certificates.”

It had long been a requirement that positive test results and refusals of airmen or air traffic controllers be reported to FAA for other types of mandated tests (random, reasonable cause/suspicion, post-accident, and follow-up). This regulatory change establishes consistency in acting on positive results on all types of FAA mandated tests, and for refusals as well as positive tests. Otherwise, an airman or air traffic controller who engages in substance abuse could potentially avoid FAA action to determine whether it is necessary for aviation safety to suspend or revoke the individual’s medical certificate, by refusing to submit to testing or because the test is a pre-employment or return-to duty-test. The Federal Register Notice changes 14 CFR Parts 61, 63, 65, 67, 91, 121, and 135. The FAA’s authority to issue rules regarding aviation safety is found in Title 49 USC. Subtitle VII, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Section 45102, charges the FAA with prescribing regulations to establish programs for drug and alcohol testing of employees performing safety-sensitive functions for air carriers and to take certificate or other action when an employee violates the testing regulations.

The approved OMB 2120-0689 had incorrectly included burden hours and costs that do not fall within the definition of paperwork burden. These have been removed from the FAA burden collection submission 2120-0535.

All of the changes listed in here are specifically included in, and consistent with A12, except for one pertaining to annualized Federal Government costs that is cited in and consistent with A14. The incremental changes in burden are listed below:

- a. Burden hour changes due to (1) reporting to FAA airman pre-employment and return-to-duty test refusals (drug—11 hours; alcohol—1 hour). (2) deleting non-paperwork burden hours (-217).
- b. Number of responses due to reporting to FAA test refusals (drug—46 responses; alcohol—6).
- c. Reduction of cost to the Federal Government due to changing the contract for processing annual reports from the aviation industry (\$21,000 now vs. \$60,000 in the approved OMB 2120-0535 collection).
- d. Costs to the industry due to (1) reporting test refusals to the FAA (drug--\$231; alcohol--\$31). (2) deleting non-paperwork burden hours from the inventory (-\$7,569). (3) adjusting the wage rate to \$21.00/hour (-\$1,470).

16. For collections of information whose results will be published, outline plans for tabulation and publication.

These results will not be published.

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.

No such approval is being requested.

18. Explain each exception to the certification statement “Certification for Paperwork Reduction Submissions”, of OMB form 83-1.

There are no exceptions.

Attachment

1. Supporting Statement
2. 30 Day Notice
3. 60 Day Notice
4. 14 CFR Part 61
5. 49 USC 3106