

OMB-2120-XXXX
SUPPORTING STATEMENT
National Air Tours Safety Standards

Justification

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

This Final Rule and the resulting paperwork burden directly support the Department of Transportation Strategic Goal on Safety. Specifically, the goal is to promote public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.

Under the authority of Title 49 USC, Section 44701, Federal Aviation Regulations (FAR) Parts 121 and 135 prescribe the terms, conditions, and limitations necessary to ensure safety in air transportation.

This final rule will improve the overall safety of commercial air tours by requiring all air tour operators, with a limited exception for certain charitable, nonprofit, and community events, to abide by the safety provisions found in new part 136.

The final rule is modeled on Special Federal Aviation Regulation (SFAR) 71, which currently governs the commercial air tour industry operating in Hawaii and incorporates recommendations from the National Transportation Safety Board. The FAA believes that SFAR 71 has improved the overall safety of the commercial air tour industry in Hawaii and now seeks to use its experience with this SFAR to improve commercial air tour safety throughout the United States. If this rulemaking is adopted, the rule will replace the requirements of SFAR 71 (OMB 2120-0620) in Hawaii and apply throughout the country.

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

Commercial air tour operators currently operating under part 121 or part 135 will see only need to provide information in the form of a helicopter performance plan as required in part 136. Some already provide such performance plans. The operators most affected will be those operating commercial air tours in part 91. These operators, unless conducting operations for charitable, nonprofit, or community events only, will need to apply for and receive a Letter of Authorization (LOA) from the FAA. This information requirement is similar, if not less of a burden, than what would have been required of these operators had been forced to move into part 135. The LOA will act as an Operations Specification would have in the proposed rule, and will provide information about each part 91 operators business. This information will be valuable for oversight of these operators, who have conducted commercial air tour flights outside of regular FAA oversight and guidance. The FAA will use the information it collects and reviews to

ensure compliance and adherence to regulations and, if necessary, take enforcement action on violators of the regulations.

These are the information collection requirements to be reviewed by OMB:

Pilot certification under 91.146

LOA's required under 91.147

Helicopter Performance Plan under 136.13

Passenger briefings under 136.7

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.

For the purposes of Government Paperwork Elimination Act (GPEA), the FAA has encouraged the use of automation by air carriers to reduce their economic burden. We estimate that 100% of the burdens could be transacted electronically. For example, the passenger briefings could be accomplished via video and/or recording. All reporting to and from the FAA could also be done electronically.

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.

We have reviewed our other FAA public-use reports. We find no duplication except reference SFAR 71 for Hawaii (OMB 2120-0620) as explained above. Also, we know of no other agency collecting information prescribing the terms, conditions, and limitations of this final rule.

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.

For other reporting or recordkeeping burden listed, the smaller operators have burdens in proportion to the size of their operation.

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

The frequency of information collection is dependent on the applicant's business plan and the public requests for air tours. The applicants who request certification benefits, for the most part, determine the frequency of information collection.

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).

This collection of information is conducted in a manner consistent with the guidelines in

5 CFR 1320.5(d)(2)(i)-(viii).

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 has worked closely with the National Park Service during development of air tour issues. Also, the request for approval of the information collection burden was submitted to the Office of Management and Budget at the same time the NPRM was published in the Federal Register for comment. The NPRM was published on October 22, 2003, vol. 68, no. 204, pages 60572-60591. The Office of Management and Budget approved our information collection burden submitted for the NPRM, but failed to provide us with an OMB Control Number. We have attached a copy of the approval sheet for review.

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

There are no monetary considerations for this collection of information.

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

Respondents have been given no assurance of confidentiality.

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 of a sensitive nature.

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

Section 91.146(d) will require each pilot to certify in a signed statement that the pilot has not flown more than three previous events covered by this section during the current calendar year. Pilots currently must provide sponsors with their pilot and medical certificates and log book under Section 61.113(d)(1). Some sponsors have also had to submit the latter information because of the exemptions they hold and would simply add

the certification statement For the first year, this will require 2,200 pilot x 10 minutes each x \$41.66 hourly = 366.7 hours and \$15,277.

Initial hours = 366.7

Initial cost = \$15,277

Recurring hours = 3,300

Recurring cost = \$137,493

Total Hours = 3,667.7

Total Cost = \$152,770

Section 91.147 requires that operators apply for, receive and comply with a Letter of Authorization from the FAA to conduct nonstop passenger-carrying flights for compensation or hire. These operators are already subject to the FAA's drug and alcohol requirements (and thus not a part of this rule) and most of the information that must be submitted under this section is the same general business information (addresses, names of personnel) provided for those programs, plus aircraft information. Initially, 645 operators will apply and thereafter, 16 new operators will register each year. The application will take each operator 20 minutes to complete the process. Initial hours and cost = 645 operators x 20 minutes each x \$73.77 hourly = 215 hours and \$15,860.

Initial hours = 215

Initial cost = \$15,860

Recurring hours = 48

Recurring cost = \$3,510

Total Hours = 263

Total Cost = \$19,370

Section 136.7 requires air tour operators to provide passenger briefings. There are numerous options for presenting the required information given the current state of electronics. Nation-wide charitable and non-profit organizations could produce videos and distribute to local chapters at very little cost. Commercial air tour operators are also likely to use videos as some already do. Some 935 videos(200 by charitable and non-profit groups, 645 by Part 91.147 operators and 90 by Part 135 operators) are estimated to be produced at an initial cost of \$500 each and be replaced over a 10-year period.

Presenting the information by video is less costly than oral briefings because the cost of producing the video can be amortized over 10 years which results in lower per briefing cost. While the automated methods are available to individuals providing local community flights, it is more likely the pilot will orally transmit this information to passengers because videos would not be cost-effective. Pilot briefings are estimated to take 3 minutes at a cost of \$2.08 per briefing.

Initial videos will take 5 hours to produce at a cost of \$100 per hour or a total of 4,675 hours and a cost of \$467,500. Initial oral briefings are estimated to take 3 minutes each at a cost of \$2.08 per briefing and given before 1,000 flights.

Initial hours = 4,725 (4,675 for video productions + 50 hours for oral briefings)

Initial cost = \$469,580 (\$467,500 for videos + \$2,080 for oral briefings)

Recurring hours = 4,657.5 (4,207.5 for video productions + 450 hours for oral briefings)

Recurring cost = \$439,470 (\$420,750 for videos + \$18,720 for oral briefings)

Total Hours = 9,382.5 (8,882.5 for video productions + 500 hours for oral briefings)

Total Cost = \$909,050 (\$888,250 for videos + \$20,800 for oral briefings)

Section 136.13 will require each operator to complete a performance plan before each helicopter flight by a commercial air tour operator. These estimates include all of the helicopters in the operator's fleet although the entire fleet may not be used for commercial air tours. Pilots will take 3 minutes to review the performance plan before each flight at a cost of \$2.08 per review. The total number of charity and non-profit helicopter flights per year are estimated at 9,600. The number of Section 91.147 flights are based on 42 helicopters conducting 400 air tour flight hours per year and performing 3 tours per flight hour (42 x 400 x 3=50,400). The number of part 135 commercial air tour flights are a combination of two categories of operations: (1) Air tour hours for operations of 134 AS 350 helicopters at 1,253 hours per year per aircraft and (2) that the average flight takes 45 minutes (134 x 1253 x (60/45) = 223,869). Commercial air tours by 169 other helicopters used by part 135 operators are based on 556 air tour hours per aircraft and performing 3 tours per flight hour (169 x 556 x 3 =281,892). The total number of affected part 135 helicopter flights is about 505,800.

Initial hours = 28,290 (9,600 +50,400 +505,800 =565,800 flight x 3 minutes per flight =
 1,697,400 minutes / 60 minutes per hour = 28,290 hours)

Initial cost = \$1,176,864 (565,800 flights x \$2.08 per flight)

Recurring hours = 2,636,010

Recurring cost = \$10,591,776

Total Hours = 282,900

Total Cost = \$11,768,640

| Summary of Initial and Total Paperwork Hours and Costs | | | | |
|--|----------------------|---------------------|-----------------------|-----------------------|
| <i>Category</i> | <i>Initial Hours</i> | <i>Initial Cost</i> | <i>Ten Year Hours</i> | <i>Ten Year Costs</i> |
| Pilot certification | 366.7 | \$15,277 | 3,667.7 | \$152,770 |
| Letter of Authorization | 215 | \$15,860 | 263 | \$19,370 |
| Passenger briefings | 4,725 | \$469,580 | 9,382.5 | \$909,050 |
| Performance plans | 28,290 | \$1,176,864 | 282,900 | \$11,768,640 |
| Total | 33596.7 | \$1,677,581 | 296,213.2 | \$12,849,830 |

For the purposes of completing Question 13 on OMB form 83-I, we estimated the total number of respondents at 3,480. That total includes all pilots who will need to certify under Section 91.146 (2,200), all air tour operators who must provide passenger briefings under Section 136.7 and those who must apply for and receive an LOA (935), and helicopter operators who must produce performance plans (345). The total annual responses in Question 13.b. is for the initial year, and drop in subsequent years. The total annual hours requested is also an initial year figure.

For the purposes of completing Question 14 on OMB form 83-1, we estimate the total annualized capital/startup costs for (a) to be \$467,500 for production of videos for the passenger briefings. That cost does not take into account hourly wages.

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

There are no additional costs not already included in question 12.

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

Section 91.147 will require the FAA to receive, review, and issue Letter of Authorization to commercial air tour operators conducting tours under this section. The cost to the FAA for an employee to complete this process (GS-13, Step 5 x 1.3245 for fringe benefits x 1.75 for associated costs x 20 minutes) is \$27.05 per application. The initial costs are based on 645 applications and 16 applications annually thereafter.

Initial cost = \$17,447 (645 x \$27.05)

Recurring costs = \$3,895 (16 x \$27.05 x 9)

Total Cost Over Ten Years = \$21,342

Present Value @ 7% = \$18,949

Annualized Cost = \$2,698

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 new collection so it constitutes a program change.

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.

There is no publication plan.

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.

We are not seeking such approval.

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 to Item 19, OMB Form 83-1.

Attachments:

1. Supporting Statement

- 2. Final Rule**
- 3. Published NPRM**
- 4. 14 CFR Part 136**
- 5. 14 CFR Part 135**
- 6. 14 CFR Part 121**
- 7. 14 CFR Part 119**
- 8. 14 CFR Part 91**
- 9. 14 CFR Part 61**
- 10. 49 USC 44701**