

**SUPPORTING STATEMENT
AIRCRAFT OPERATOR SECURITY
49 C.F.R. Part 1544**

1652-0003

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. (Annotate the CFR parts/sections affected).***

The Aviation and Transportation Security Act of 2001 (ATSA), Public Law 107-71, 115 Stat. 597, November 19, 2001, transferred the responsibility for civil aviation security from the Federal Aviation Administration (FAA) to the Transportation Security Administration (TSA). In February 2002, TSA implemented its aircraft operator security standards through 49 CFR part 1544, while FAA's legacy regulation covering this portion of aviation security, 14 CFR part 108, was repealed. The information collection required by part 1544 remains critical in the aftermath of the terrorist attacks of September 11, 2001.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.***

Part 1544 requires aircraft operators to adopt and implement a TSA-approved security program. These programs require aircraft operators to maintain and update records to ensure compliance with security provisions outlined in part 1544. Although the Federal government has taken responsibility for many aspects of airport and aircraft security, these programs serve as a vital link in the "system of systems" that comprise modern aviation security and are used by aircraft operators to implement the most current and effective security measures. These programs require that on a per-flight basis, aircraft operators compare passenger manifests against the TSA watch lists and report any matches to TSA.

TSA Principal Security Inspectors (PSI) and Transportation Security Inspectors (TSI) frequently review these records to ensure that the safety and security of the public is not compromised and, when necessary, take corrective enforcement action. In addition, as mandated by 49 U.S.C. 44936, part 1544 requires flight crew members and employees who have unescorted access authority or who perform screening functions to submit to a criminal history records check (CHRC). In order to conduct a CHRC, these individuals must provide identifying information that must be maintained by the aircraft operator. Additionally, fingerprints of these individuals are collected, and maintained by the aircraft operator. The intent of a CHRC is to ensure that an aircraft operator employee working in a security sensitive position or in secured areas of an airport does not pose a risk to aviation security.

- 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, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Aircraft operators have the latitude and flexibility to maintain the required information in a manner that best meets their particular needs, to include the electronic maintenance. Thus, this collection is in compliance with the Government Paperwork Elimination Act for record keeping; electronic signatures are not applicable to this program. It is estimated that 70% of aircraft operators currently maintain these records 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 Item 2 above.**

On occasion, aircraft operator employees must also submit to a CHRC for Customs and Border Protection (CBP) and the United States Postal Service (USPS) when performing duties that are directly related to these agencies. These may include unloading and handling mail, cargo, and baggage arriving from foreign locations. Generally, these CHRC submissions occur separately because aircraft operator employees must first gain unescorted access authority to sensitive areas of airports before performing functions for CBP and USPS. Note that rap sheets, the documents used to conduct CHRCs, become 'stale' shortly after they are received. Thus, if a worker applies for access to the CBP secure areas a month after they applied for an airport access badge, CBP would most likely want a new record to ensure that no disqualifying offenses had occurred in the last month. Also, note that Federal Bureau of Investigation (FBI) standards require that an agency must submit a new set of fingerprints each time it does a criminal records check, so typically a new collection must take place.

In an effort to minimize any duplicate CHRCs, the TSA will share the results of CHRCs for affected aircraft operator employees with CBP personnel who have a need to know the information in performance of their official duties pursuant to the Privacy Act, 5 USC § 552a(b)(1).

In accordance with 49 U.S.C. 44936, requirements in 49 CFR 1542.209 and 1544.229 require the regulated parties to ensure that no individual is granted unescorted access authority unless the individual has undergone a fingerprint-based CHRC that does not disclose that he or she has a disqualifying criminal offense. The language specifies the manner in which the parties are to obtain CHRC results for each individual seeking unescorted access authority. However, the language currently does not require the parties to renew each CHRC periodically or to assure that each individual affected by the requirement has not been convicted of a disqualifying criminal offense since last vetted.

5. ***If the collection of information has a significant impact on a substantial number of small businesses or other small entities (Item 5 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.***

The amount of information required by this collection is proportional to the size of each aircraft operators' organization and therefore does not create a significant impact on a substantial number of small businesses.

6. ***Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.***

If this collection was not conducted, TSA would not be in compliance with its statutory mandate and the security of our aircraft operators would be compromised. The collected information is subject to random review during the TSA inspection process. Additionally, if the CHRC was not required, aircraft operator employees who were convicted of disqualifying criminal offenses deemed threatening to aviation security could gain access to secured areas of an airport or obtain security sensitive positions.

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

5 CFR 1320.5(d)(2)(i): Unless the agency is able to demonstrate, in its submission for OMB clearance, that such characteristic of the collection of information is necessary to satisfy statutory requirements or other substantial need, OMB will not approve a collection of information—

Requiring respondents to report information to the agency more often than quarterly.

Note: Aircraft operators are required to conduct a comparison of their passengers against the TSA No Fly and Selectee Lists and report any matches to TSA. On average, this list is updated on a daily basis. Thus, in the interest of transportation security, aircraft operators may need to notify TSA more often than quarterly, on a flight-by-flight basis. Additionally, aircraft search checklists – training record keeping requirements -- cargo related record keeping, and No Fly List and Selectee List matches are also required reporting in the interest of aviation security and trend analysis.

5 CFR 1320.5(d)(2)(iv): Unless the agency is able to demonstrate, in its submission for OMB clearance, that such characteristic of the collection of information is necessary to satisfy statutory requirements or other substantial need, OMB will not approve a collection of information—

(iv) Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;

Note: In the interest of transportation security, aircraft operators must maintain records of compliance associated with the security program requirements and federal regulations.

Otherwise, the collection is conducted in accordance with 5 CFR 1320.5(d)(2).

- 8. Describe efforts to consult 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. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d) soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

TSA is in continuous dialogue with aircraft operator stakeholders and public comments were sought via notice in the Federal Register on October 8, 2008 (73 FR 60310); to TSA's knowledge, none were received.

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

TSA will not provide any 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.**

TSA does not provide any assurances of confidentiality. Information provided by individuals will be protected from disclosure to the extent appropriate under the applicable provisions of the Freedom of Information Act and the Privacy Act of 1974. Personal data will be collected and transmitted in accordance with the Privacy Act.

- 11. Provide additional justification for any questions of sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

TSA will not ask any questions of a sensitive or private nature.

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

Maintaining security programs and administering CHRCs is a dynamic process. TSA estimated in its November 2, 2006, Federal Register notice that 70 respondent aircraft operators will spend approximately 10 hours per week in relation to this information collection requirement. After further evaluation, TSA has revised both the number of respondents and the weekly hour burden estimate.

The 70 respondents listed in the previous Information Collection Request (ICR) submission represent airlines holding a full Aircraft Operator Standard Security Program (AOSSP). The number was reduced from 80 to 70 to reflect the current total number of aircraft operators. These aircraft operators generally provide scheduled passenger service and public charter service and tend to be larger companies. In addition to these respondents, TSA is adding 730 aircraft operators who hold either a Twelve-Five Standard Security Program (TFSSP) or a Private Charter Standard Security Program (PCSSP). These aircraft operators typically provide on-demand air service and tend to be smaller companies. 49 CFR Part 1544 also governs recordkeeping requirements for aircraft operators holding a full All-Cargo Standard Security Program; however, their hour burden has been separately reported under OMB control number 1652-0040. Thus, the total number of respondents claimed under this information collection is 800.

AOSSP Population and Hour Burden Estimate

Based on data provided by the American Association of Airport Executives (AAAE), TSA estimates AOSSP aircraft operators devote approximately 10 hours per week to recordkeeping associated with CHRCs and an additional 10 hours per week for other required recordkeeping under 49 CFR Part 1544. This results in an annual total of 1,040 hours per respondent, or 72,800 total annual hours.

Criminal History Records Checks

TSA requires the aircraft operators to collect information from employees that the FBI needs to conduct a CHRC. The aircraft operator is required to collect information from prospective employees that contain the following information as required by 49 CFR 1544.229 and 1544.230: ID verification, the 28 disqualifying crimes, signature verification, fingerprint disposition from the Federal Bureau of Investigation (FBI), and for those who do not perform electronic fingerprint submission, fingerprint cards which are required recordkeeping. The information passes through TSA, goes to the FBI, and the FBI returns any rap sheets that correspond to the biographic info we submitted. TSA posts those rap sheets on a secure web board that the aircraft operators then access, in order to adjudicate the results based on a list of disqualifying criminal offenses.

Watch List

In addition to conducting CHRCs and maintaining security program documents, these operators devote considerable time to comparing passenger names to watch lists distributed by TSA. While TSA directs aircraft operators to conduct these checks, it does not specify how they are to do so. Consequently, aircraft operators employ diverse methods to perform these checks, resulting in varying hour burdens. Aircraft operators are required to report tentative matches and confirmed matches to the watch lists. TSA was able to estimate the hour burden for a single aircraft operator. TSA used the data from this one major aircraft operator as a proxy for the remaining AOSSP respondents. As a result, the annual hour burden calculated below may or may not be an accurate reflection of the actual annual burden experienced by respondents.

The largest commercial aircraft operators incorporate the updated TSA watch lists into their computer reservation systems (CRS), which occurs on a daily basis. Based on interviews with aircraft operators, TSA estimates this process takes approximately three hours per day. The CRS then compares passenger names to names in the watch lists and returns possible matches to a team of airline employees who review these “hits.” The size of such staffs again varies between airlines, but one major airline maintains 15 people on duty 24-hours per day. TSA assumes the required reporting of any confirmed or tentative matches to TSA is included in the duties and hour burden of the airline staff. Thus, the respondent airline devotes $131,400$ ($15 \text{ staff} * 24 \text{ hours/day} * 365 \text{ days/year}$) + $1,095$ ($3 \text{ hours/day} * 365 \text{ days/year}$) = $132,495$ hours per year to watch list matching. Dividing this annual hourly burden by the airline’s fiscal year 2007 enplanements yields a per-enplanement hourly burden of 0.002 hours per enplanement for watch list matching.

In order to update the burden hours for all operators, we multiplied the 0.002 hours per enplanement by the total number of enplanements for all 70 operators in 2007 (769.2m). Thus, $0.002 \text{ hours} * 769,200,000 \text{ enplanements} = 1,538,400$ hour burden for watch listing for all 70 respondents.

TSA applied this unit hourly burden to the annual enplanements for all 70 respondent operators, resulting in an estimated annual hour burden of 1,538,400 hours.

In sum, TSA estimates 70 AOSSP aircraft operators devote approximately 1,611,200 (72,800 hours for CHRCs plus 1,538,400 for watch list processing) hours per year to conduct TSA watch list comparisons and report tentative and confirmed matches to TSA, perform CHRCs, and maintain their security programs.

NOTE: The passenger watch list checks currently conducted by aircraft operators will eventually be taken over by TSA's Secure Flight program. Under this program, TSA will conduct the checks for the aircraft operators, which will reduce their burden as described in this ICR (see OMB control number 1652-0046).

Training

Commercial aircraft operators are required by their security program to train their employees annually with initial training and recurrent training covering a number of subjects. The training can be delivered in several methods such as web-based training, classroom training, hands on training, and home study. The aircraft operators must retain the records a minimum of 90 calendar days after termination of duty.

TFSSP/PCSSP Population and Hour Burden Estimate

As stated above, approximately 730 aircraft operators hold either a Twelve-Five Standard Security Program (TFSSP) or a Private Charter Standard Security Program (PCSSP).

TSA estimates approximately 1,500 employees will need CHRCs each year for this group of respondents and that each CHRC takes approximately 30 minutes to process. These estimates result in 750 annual hours devoted to processing CHRCs for these respondents.

Corresponding to the scope of their operations, TSA has established less burdensome security program requirements for TFSSP and PCSSP aircraft operators. On average, these respondents only incur a recordkeeping burden when they need to amend their security programs. TSA estimates each amendment requires 8 hours of operator time and that operators process two amendments per year. When applied to all 730 respondents, the estimated 16 annual hours to amend security programs results in an estimated annual burden of 11,680 hours.

Like the AOSSP respondents, these operators must compare passenger names to TSA's watch lists. Again, actual hour burdens vary widely across the industry. TSA estimates aircraft operator security coordinators spend an average of five minutes per passenger on the watch list process. This estimate accounts for the time to download the watch list, compare passenger names to names in the lists, and adjudicate any potential matches. TSA has previously estimated that these respondents carry approximately 2.61 million passengers per year, resulting in an annual hour burden of 217,500 hours.

In sum, TSA estimates these 730 TFSSP and PCSSP aircraft operators devote approximately 229,930 hours per year to conduct TSA watch list comparisons and report matches to TSA, perform CHRCs, and maintain their security programs.

Together, TSA estimates the 800 respondents have an average annual hour burden of 1,841,130 hours. As discussed previously, TSA's estimates of the annual hour burden for respondents to compare passengers to the watch lists are based on very limited data and may or may not accurately reflect the actual burden on the industry.

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

Separate from the hour burden estimates provided in Item 13 on page 1, operators incur other costs resulting from the collection of information. The AAAE has estimated that an average AOSSP operator spends approximately 10 hours per week on work associated with CHRCs. Each CHRC takes roughly 30 minutes, therefore a typical AOSSP operator will work on approximately 1,040 per year. Fees for the fingerprinting required by a CHRC range from \$29 to \$75 if the operator uses National Aviation Trades Association (NATA) fingerprinting services. Based on an average fee of \$52, the average annual cost to process CHRCs for respondents holding an AOSSP will be approximately \$3,785,600.

TSA estimates approximately 1,500 employees will need CHRCs each year for TFSSP/PCSSP respondents. Based on an average fee of \$52 for fingerprinting required by a CHRC, TSA estimates the average annual cost to respondents holding a PCSSP or TFSSP to process CHRCs will be approximately \$78,000.

Thus, TSA estimates the total average annual cost to all respondents as a result of this collection will be approximately \$3,863,600. The increase in the total annual cost burden from the previous (2002) ICR reflects the inclusion of additional respondents, which were previously excluded.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, and other expenses that would not have been incurred without this collection of information.

Part 1544 requires TSA to verify the information maintained by the respondents, as outlined above. Verification is estimated to take an average 25 hours per respondent holding an Aircraft Operator Standard Security Program (AOSSP) at a cost of \$43 per hour for a TSA TSI. This wage is based on the mid-range salary with benefits for an inspector at the "H" pay band who is working a standard 2080 hours per year. The cost to TSA to verify the information required of AOSSP respondents is thus \$75,250 annually.

Verification is estimated to take an average of 4 hours per year per respondent holding a TFSSP or PCSSP. The cost to TSA to verify the information required of these respondents is thus \$125,560.

The total annual cost to the Federal government for this program is estimated to be approximately \$200,810 annually.

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

The process of maintaining and updating aircraft operator security plans was recalculated to more accurately reflect the time and effort the respondents are expending in order to comply with the security program requirement. Additionally, the increase in the total annual hour and cost burden reflects the inclusion of the CHRC requirements, and the TSA watch lists comparison and reporting requirement, which more accurately reflects the total annual hour and cost burden to respondents.

The 70 respondents listed in the previous ICR submission represent airlines holding a full AOSSP. These aircraft operators generally provide scheduled passenger service and tend to be larger companies. In addition to these respondents, TSA is adding 730 aircraft operators who hold either a TFSSP or a PCSSP. These aircraft operators typically provide on-demand air service and tend to be smaller companies. 49 CFR Part 1544 also governs recordkeeping requirements for aircraft operators holding a full All-Cargo Standard Security Program; however, their hour burden has been separately reported under OMB control number 1652-0040. Thus, the total number of respondents claimed under this information collection is 800.

16. For collections of information whose results will 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.

TSA will not publish the results of this collection.

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.

TSA is 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.

TSA is not seeking any exceptions.