

INFORMATION COLLECTION SUPPORTING STATEMENT

2120-0646 Protection of Voluntarily Submitted Information

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

Part 193 of the Federal Aviation Administration (FAA) regulations provides that certain information submitted to the FAA on a voluntary basis is not to be disclosed. This part implements a statutory provision. The purpose of this rule is to encourage the aviation community to voluntarily share information with the FAA so that the agency may work cooperatively with industry to identify modifications to rules, policies, and procedures needed to improve safety, security, and efficiency of the National Airspace System. The information collection associated with this rule also supports the Department of Transportation's Strategic Goal of Safety and Security.

To encourage people to voluntarily submit desired information, § 40123 was added to Title 49, United States Code, in the Federal Aviation Reauthorization Act of 1996. Section 40123 allows the Administrator, through FAA regulations, to protect from disclosure voluntarily provided information relating to safety and security issues.

The White House Commission on Aviation Safety and Security issued a recommendation on this subject. In Recommendation 1.8, the Commission noted that the most effective way to identify problems is for the people who operate the system to self-disclose the information, but that people will not provide information to the FAA unless it can be protected.

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

One of the ways to have an information program designated as protected under Section 40123 is for an air carrier or other person to submit an application for an individual program. The FAA evaluates the application and either publishes a designation based on the application for public comment or denies the application. After comments are received, the FAA reviews them and evaluates whether the elements in § 193.5 114, have been met. An Order designating the information protected is published in the Federal register. The order includes summaries of why the Administrator finds that the elements are met. By publishing the Order in the Federal Register, all interested persons are able to see that they can provide information under the program and receive the protection described in Section 40123 and part 193.

3. *Describe any consideration of information technology used to reduce burden as well as any ethical or legal obstacles to reducing burden.*

In accordance with the provisions of the Government Paperwork Elimination Act, the FAA allows for 100% electronic transmission of this data.

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.*

Efforts are continually made to reduce both duplication and information collection burden through regulatory reviews. This rule 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 15 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.*

This rule has been reviewed by FAA's Office of Policy and has been determined not to 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.*

Without this program, the FAA would not be able to ascertain whether appropriate actions are being taken to correct deficiencies that impact safety. The information collection frequencies required by this rule are the minimum necessary and appropriate for these purposes. The impetus is on the respondent, at his/her discretion, to participate in the program.

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).*

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the general collection guidelines in 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), any on the data elements to be recorded, disclosed or reported.*

A notice for comment was published in the Federal Register on May 15, 2008, vol. 73, no. 95, on page 28182. No comments were received. A copy is attached for your convenience.

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

Not applicable.

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 (Pub. L. 104-264), 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 (§ 40123) to Title 49, United States Code to the FAA governing statute to protect voluntarily submitted information under certain circumstances. . See Background section of the NPRM. Under part 193 records are available through the Freedom of Information 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.*

There are no questions of a sensitive nature.

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

This rule imposes a negligible paperwork burden for air carriers that choose to participate in this program. The air carrier submits a letter notifying the Administrator that they wish to participate in a current program. The FAA continues to estimate that this letter costs approximately \$100 to generate. It is estimated that approximately 10 air carriers would prepare one application each. Assuming that each of the 10 air carriers file one application divided by 10 years equals approximately one (1) hour per application times five (5) programs equals a total of 5 hours each year. The estimated hour burden is 5 hours (one time application). The FAA anticipates that approximately five (5) new programs will be in existence within the next 10 years. The total cost to the industry of notifying the Administrator concerning the air carriers' participation in these programs would be \$5,000 over 10 years.

Occasionally, an air carrier may want to propose a program to the FAA that would require voluntarily submitted information that would have to be protected. The FAA anticipates that it would cost approximately \$1,000 to develop such a proposal, and we anticipate that there would only be one (1) such proposal per decade.

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

There are no additional start-up costs associated with this collection, other than the estimates already described in item # 12.

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

This rule does not specifically require the FAA to establish and manage a recordkeeping and aggregate data monitoring capability for this requirement. However, whereas the purpose of the rule is to encourage the voluntary submission of information from punitive enforcement, some voluntarily participating air carriers may submit an application. The FAA in turn is obligated to establish an infrastructure suitable for the acquisition, monitoring and use of voluntarily submitted information submitted by participants.

The estimated cost to the Federal Government is approximately \$100 to process one application. Times the estimated 10 applications is \$1,000.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

There are no changes since the previous submission.

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

Not applicable.

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.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork reduction Act Submissions, " of OMB Form 83-1.

There are no exceptions.