

SUPPORTING STATEMENT FOR INFORMATION COLLECTION

PROCEDURES AND EVIDENCE RULES FOR AIR CARRIERS AUTHORITY APPLICATIONS (14 CFR Parts 201, 204, 291)

OMB Control Number: 2106-0023

This supporting statement is associated with a request for a reinstatement (with change) of an existing information collection. On September 30, 2007, the Department of Transportation (DOT) migrated from DOT's Docket Management System (DMS) to the Federal Docket Management System (FDMS) on the www.regulations.gov Internet website. In May 2010, the Department began accepting electronic payment of application fees through the Department of Treasury Internet website at www.pay.gov.

There were adjustments in burden estimates since the 2007 ICR submission. The Department typically bases its burden estimates on the average level of activity experienced during the prior two fiscal years, in this case FY 2008 and FY 2009. The 2007 ICR submission was based on the average level experienced in FY 2004 and FY 2005. There was a decrease in the average number of respondents and responses for FY 2008 and FY 2009. The annual burden per respondent decreased from 65 in the 2007 ICR submission to 55 in the 2010 ICR submission. This reduction is attributed to the reduced number of respondents. The annual burden cost to respondents changed slightly due to a decrease in the number of respondents and an increase in the salary cost of the persons preparing the name registration applications. The annual cost to the government changed because of a decrease in the number of respondents and an increase in the salary cost of the government personnel processing the name registration applications.

A. Justification

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

DOT STRATEGIC GOAL: The Department of Transportation (DOT) is responsible for ensuring that air carriers requesting economic authority are fit, willing, and able to provide air transportation as a U.S. air carrier. Collection of this data provides DOT with a sufficient basis upon which to determine whether an applicant or operating U.S. air carrier is a U.S. citizen and has or continues to have the managerial competence necessary, the financial wherewithal, and the compliance disposition to conduct its proposed, current, or expanded operations.

Statutory requirements for this information collection are identified in 49 U.S.C. sections 41102, 41103, and 41738 (copies enclosed). The relevant sections of 49 U.S.C. require DOT to determine the initial fitness of all applicants for authority to provide certificated passenger and cargo air service, and commuter air service. 49 U.S.C. 41110(e) states that the fitness requirement for these air carriers is a continuous one and provides the DOT with the ability to modify, suspend, or revoke an air carrier's authority if it is no longer fit to operate, or if it fails to file the reports needed to monitor its continuing fitness.

14 CFR Parts 201, 204, and 291 (copies enclosed) contain evidentiary rules that set forth specific information that needs to be filed in fitness cases. Specifically, 14 CFR sections 201.1, 204.3, 204.4, 204.5, 204.6, and 291.10 set forth the application procedures and specific information filing

requirements for air carriers seeking certificate or commuter authority or the information required to be filed by existing airlines demonstrating their continuing fitness. In addition, section 204.7 provides for revocation/termination of certificate or commuter authority if an air carrier does not operate for one year under any authority for which it was found fit. Furthermore, if an air carrier ceases operations, it must re-establish its fitness to operate before resuming operations.

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

14 CFR Parts 201 and 291, Sections 201.1, 201.4, 291.10 contain the formal procedures to be followed by applicants in filing applications for certificate or commuter authority.

14 CFR Part 204, sections 204.3, 204.4, 204.5, and 204.6 identify the information that is required to be submitted by applicants in support of their fitness to hold Department authority to provide air transportation services to the public. Fitness information includes data on the company's owners, officers, management, and other key personnel, including their citizenship, background and qualifications for their positions; the applicant's operating plan and source of funds to provide its proposed services; and the applicant's safety and compliance history.

The Department uses the information collected to perform a unique and important function in its review of the fitness of air carriers. The existence of minimum standards for fitness is a primary deterrent for unsophisticated and potentially unfit companies that might otherwise commence operations to the detriment of the traveling public. As a result of the Department's efforts in establishing and monitoring the fitness of air carriers, a number of applicants for initial certificate or commuter authority have been found unfit and have withdrawn their applications in anticipation of an unfavorable finding, and previously certificated air carriers have made changes designed to strengthen their ability to provide air carrier services without posing an undue risk to the traveling and shipping public. If the collection of information was proscribed, it could create serious consumer problems by, for instance, permitting financially marginal air carriers or those with questionable compliance attitudes or inadequate managerial capabilities to institute and/or continue airline services.

In addition, 14 CFR Part 204, section 204.7 requires air carriers that cease operations often do so because of extreme financial difficulties or safety problems establish that they are fit before recommencing operations. The requirements of section 204.7 that such air carriers establish that they continue to be fit before recommencing operations enables the Department to ensure that such air carriers will not provide unwarranted risk to the public.

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.

Applicants submit applications for new economic authority or the information required to be filed by existing airlines demonstrating their continuing fitness electronically through the computerized Federal Docket Management System (FDMS) or through email directly to our office.

Approximately 15 percent of the responses are sent electronically. Electronic submission helps reduce the costs associated with printing and mailing the information through the postal service.

14 CFR Part 302, which became effective on October 1, 1997, authorizes the filing of documents by electronic means. All of these documents may be accessed by the public through the Internet at <http://www.regulations.gov>.

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) describe in Item 2 above.

On occasion, an air carrier holding authority may have filed fitness-related information with the Department in the recent past or in connection with another proceeding. The Office of the Secretary, the Federal Aviation Administration, and the National Transportation Safety Board maintain databases containing information on the type and status of an air carrier's authority, aircraft operated consumer complaints, enforcement history, and accident and incident reports. By making use of these information sources, we are able to reduce the information required to be supplied by applicants.

When such information still accurately reflects its fitness, it may cite the date and place of such filings and thus avoid having to file duplicate information. If material previously filed by an air carrier is no longer accurate because, for example, its financial, managerial, ownership, or compliance situation has changed, we must require the air carrier to file updated information.

In most cases, however, applicants for new authority have not previously filed information similar to that required in Part 204 with the Department of any other agency.

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

We have tried to simplify and assist small companies in the preparation of fitness application through the development and distribution of explanatory booklets which contain copies of the applicable regulations, sample application forms, and a narrative discussion of the type of information we look for in making fitness determinations and the form in which such information may be submitted. These booklets can save air carriers many hours in preparing applications and are available online at <http://ostpxweb.dot.gov/aviation/index.html>.

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.

The Department is required by statute to determine the fitness of anyone seeking to hold a license to provide air transportation. The collection of evidence of air carrier fitness is done on an occasional basis, in connection with applications from companies seeking new air carrier authority or supporting their continuing fitness to hold such authority. 14 CFR Parts 201, 204, and 291 contain evidentiary rules that set forth specific information that needs to be filed in fitness cases. Without these rules, the burden of submitting an application would be substantially greater to the federal

government and to the respondents since there would be no uniform rule detailing the information requirements. New applicants unfamiliar with past fitness cases would be at a loss to determine what to file and would likely file too little material, necessitating requests for further information from the Department's staff, resulting in delays in processing the application. In order to avoid these problems, potential applicants would seek personal assistance from Department staff on how to set up an application. This would be a tremendous drain on staff time, increasing the government's burden substantially.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years; in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study; requiring the use of a statistical data classification that has not been reviewed and approved by OMB; that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

These collections are consistent with 5 CFR 1320.6.

8. 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.

A notice, pursuant to 5 CFR 1320.8(d), soliciting comments on the proposed extension of the information collections was published in the Federal Register on January 8, 2010, Vol. 75, No. 5 (Page 1112). No comments were received.

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 to respondents.

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

A motion requesting confidential treatment may be filed by respondents to these collections under section 302.12 of the Department's Procedural Regulations. Such motions are handled in accordance with the Freedom of Information Act and the Department's past practices.

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

There are no sensitive questions.

12. Provide estimates of the hour burden of the collection of information, including:

Number of respondents: 55

Number of responses: 150

Frequency of response: on occasion

Annual hour burden: 7,050

Annualized cost to respondents: \$705,000

We have estimated the number of annual respondents and responses based on the average of the level of activity experienced during fiscal years 2008 and 2009. Applicants file the required information only when applying for new air carrier authority or supporting their continuing fitness to hold such authority.

TABLE 1. Estimated Burden on Respondent

	Initial/additional cert. or commuter authority (incl. fitness evidence)	Additional certificate authority (no evidence required)	Review of continuing fitness (evidence requirements vary)	Totals
Applicants	10	15	30	55
Filings each	3	2	3	8
Total filings	30	30	90	150
Avg. # of hours to prepare filing	65	20	50	135
Total Burden Hours	1,950	600	4,500	7,050

To calculate the total number of annual respondents, we summed the number of respondents for (1) initial/additional certificate or commuter authority which includes fitness evidence, (2) additional certificate authority with no fitness evidence required, and (3) review of continuing fitness in which evidence requirements vary.

The annual burden on the applicant estimate is based on our acquired knowledge of the industry's experience in preparing the various types of applications under 14 CFR Parts 201, 204, and 291. Assumptions made in arriving at these estimates include the following: (1) Not all applications require the filing of comparable amounts of, or even any, fitness data; and (2) the burden on the applicants is the minimum that a reasonable person would expect to supply only the information required; that is, optional expenses an applicant might incur for outside consultants or attorneys to assist in preparing an application are not considered.

The estimated total annual burden on 55 applicants of preparing and submitting 150 filings for certificate and commuter authority and continuing fitness reviews is 7,050 hours. To calculate the amount of hours, we multiplied the total number of filings per category by the number of hours it takes an applicant to prepare a filing. We then summed the totals for each category. These burden estimates are based on an average burden ranging between 20 person-hours and \$2,000 for an application requiring no fitness evidence, and 65 person-hours and \$6,500 for an application requiring such evidence at an average cost per hour of \$100, which includes the cost of analytical, legal, and clerical participation in the preparation of these applications.

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

TABLE 2: Total Annual Cost to Respondent

	Initial/additional cert. or commuter authority (incl. fitness evidence)	Additional certificate authority (no evidence required)	Review of continuing fitness (evidence requirements vary)	Totals
Avg. # of hours to prepare filing	65	20	50	135
Total Burden Hours	1,950	600	4,500	7,050
Avg. cost per hour	\$100	\$100	\$100	\$300
Avg. cost per filing	\$6,500	\$2,000	\$5,000	\$13,500
Total cost to Applicants	\$195,000	\$60,000	\$450,000	\$705,000

- a. Total capital and start-up cost component – none
- b. Total operation and maintenance and purchase of services component – none

The fitness information to be provided by respondents, if not already available in the company's own records, would need to be developed anyway as tools for monitoring its operations or for the requirements of suppliers, lessors, and lenders. Therefore, the burden should extend no further than collecting already existing material and putting in a form appropriate for filing with the Department.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include qualification of hours, operational expense, and any other expense that would not have been incurred without this collection of information.

TABLE 3: Total Annualized Cost to Federal Government

	Initial/additional cert. or commuter authority (incl. fitness evidence)	Additional certificate authority (no evidence required)	Review of continuing fitness (evidence requirements vary)	Totals
Total filings	30	30	90	150
Avg. # of hours to process filing	90	25	55	170
Total Avg. Hours	2,700	750	4,950	8,400
Avg. cost per hour	\$109	\$144	\$103	\$356
Avg. cost per filing	\$9,810	\$3,600	\$5,665	\$19,075
Total cost to Government	\$294,300	\$108,000	\$509,850	\$912,150

The total annual estimated cost to the federal government for processing the estimated 150 applications is \$912,150. The average cost per hour for processing an application ranges from \$103 to \$144, depending on the type of application filed. We have increased the \$86, \$91, and \$102 burden estimates in our 2006 paperwork by 20 percent to account for possible increased salaries, costs of living, inflation, printing expenses, and other expenses.

15. Explain reasons for any program changes or adjustments reported.

There are adjustment changes due to the increase in the number of applications/filings submitted in 2008 and 2009, plus the increase in costs associated with the analytical, legal, and clerical participation in the preparation of these applications.

16. For collection 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.

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 "Certification for Paperwork Reduction Act Submissions."

Not applicable.