

## SUPPORTING STATEMENT FOR INFORMATION COLLECTION

### USE AND CHANGE OF NAMES OF AIR CARRIERS, FOREIGN AIR CARRIERS, AND COMMUTER AIR CARRIERS (14 CFR PART 215)

**OMB Control No. 2106-0043**

This supporting statement is associated with a request for a reinstatement (with change) of an existing information collection. There were no changes to the program; however, there were adjustments in the burden estimates. 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. Identify any legal or administrative requirements that necessitate the collection.**

DOT STRATEGIC GOAL: Department of Transportation (DOT) is responsible for the safety of the public from U.S. air carriers using names that may be deceptive or that may otherwise result in significant public confusion.

14 CFR Part 215 prohibits a U.S. or foreign air carrier from holding out to the public or performing any air transportation services in any name other than that in which its operating authorization is issued or which has otherwise been approved by the Department. In addition, it sets forth the procedures to be followed by air carriers in changing the name on their authorization or using a trade name. Data collection is done on an occasional basis, in connection with applications from companies seeking new, reissued, or transferred authority in a new name or the use of a trade name. The collection of information is authorized by 49 U.S.C. sections 40113, 41102, 41302, 41738, and 41712 (copies attached).

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

All U.S. certificated and commuter air carriers, and all foreign air carriers holding permits under 49 U.S.C. § 41302 are subject to this rule, the purpose for which is to ensure that these air carriers do not advertise or operate in any name other than that in which they are authorized to do

so by the Department. This is necessary so that the Department, as well as the traveling and shipping public, can identify, specifically, the air carriers offering or operating services.

**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.**

14 CFR Part 302 authorizes the filing of documents by electronic means. Approximately 5 percent of the applicants submit registration applications electronically through email directly to our office. Electronic submission reduces applicant costs associated with printing and mailing the information through the postal service. In addition, the Department electronically scans into the computerized Federal Docket Management System (FDMS) all paper documents filed in docket proceedings. 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 purposes described in Item 2 above.**

Separate applications are not required when the Department receives an application for new, reissued or transferred authority, and that application includes a request to register a proposed trade name.

A separate application and notice under 14 CFR Part 215 is required when the request for usage of a name does not include the issuance or reissuance of operating authority. This information is not otherwise available in any filing.

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

In the majority of cases, name registration will occur automatically with the filing of an application for operating authority; no separate filing is required. If a separate filing is required, generally, it can be accomplished in a letter to the Department's staff.

**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 rules require any air carrier proposing to change its name to register the new name with the Department since the Department issues economic authority to air carriers based on the name initially on file. This name registration can be part of an application for initial, reissued, or transferred authority or a separate notice where use of a trade name is sought. In any case where another air carrier has a name similar to the one proposed, the applicant must notify the other air carrier of its proposed usage of the name and advise the Department of such notice. [Once

notified, the other air carrier may seek judicial relief to protect its names if action is warranted.] Subsequent to all required notification, the Department will then “acknowledge” the proposed name in its action on the initial, reissued, or transferred authority or in a separate notice register the trade name. Should this collection occur less frequently or not conducted at all, the greater the potential for anti-competitive and deceptive business practices, which could ultimately lead to significant public confusion.

**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.**

No such circumstances exist.

**8. 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.**

A notice, pursuant to 5 CFR 1320.8(d), soliciting comments on the proposed reinstatement of the information collection 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 the assurance in statute, regulation, or agency policy.**

Although confidentiality is not usually sought in connection with applications to register a trade name, any applicant may file a motion for confidential treatment under section 302.12 of the Department's Procedural regulations, and the application would be handled in accordance with the provisions of the Freedom of Information Act.

**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.**

There are no sensitive questions.

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

Number of respondents: 12  
 Frequency of response: on occasion  
 Annual hour burden: 55.2  
 Annualized cost to respondents: \$5,520

Explanation of how the burden was estimated.

The burden on approximately 12 applicants per year for a name change to prepare and prosecute their applications is estimated to be 4.6 hours each. For applicants for initial air carrier authority or foreign air carrier permits whose proposed name is included in its application for operating authority, we have not calculated a separate burden. We have found that such an applicant normally has already researched the federal and state trademark/servicemark records to determine whether its proposed name is likely to conflict with that of another company, thus, the applicant rarely must comply with the requirement that 14 CFR Part 215 to notify any other air carriers with the same or a similar name that the applicant proposes to operate under. The estimated number of respondents was based upon the average annual number of applications for name changes filed in calendar years 2008 and 2009.

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

The burden cost estimate was based on our acquired knowledge of the industry's experience in preparing the various types of applications. Assuming a normal mix of analytical/legal/clerical participation in the preparation of name registration applications, the total salary cost is:

$$12 \text{ applicants} \times 4.6 \text{ hours} \times \$100 \text{ per hour} = \$5,520 \text{ salary costs}$$

**14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.**

Total salary cost to government:

12 name applications x 5 hours x \$45.50 per hour = \$2,730

We estimate that approximately 12 applications are filed each year seeking a name change or use of a trade name. The average time it takes the Department to process an application is 5 hours each, including time to review the applicant's proposed name against the names of existing air carriers, contact the applicant about air carriers with similar names, and reissue the authority or a notice announcing the new name. For applications for new or reissued authority, where the name registration is part of the application and no separate order or notice authorizing the name is issued, no separate name registration burden has been calculated, since the staff work on this task is counted as part of the burden processing the application for authority under 14 CFR Parts 201, 204, and 291 (see OMB Control Number 2106-0023).

We estimate that the average cost per hour for processing an application to be \$45.50 (based on the hourly GS-12/1 pay rate of \$35 as of January 2009, increased by 30 percent to cover printing and miscellaneous expenses).

**15. Explain the reasons for any program changes or adjustments.**

There are adjustment changes due to the changes in the number of applications/filings submitted in 2008 and 2009 plus the increase per hour burden cost to the government.

**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.**

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 "Certification for Paperwork Reduction Act Submissions."**

Not applicable.