

Supporting Statement for Paperwork Reduction Act Submission
Hazardous Materials Training Requirements
Docket FAA-2003-15085
RIN 2120-AG75
OMB #2120-0705

- 1. Explain the circumstances that 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.***

This information collection directly supports the Department of Transportation's strategic goal on *SAFETY*. Specifically, the goal is to promote the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage.

Title 49 USC, Section 44702, empowers the Secretary of Transportation to issue air carrier operating certificates and to establish minimum safety standards for the operation of the air carrier to whom such certificates are issued. Under the authority of Title 49 USC, Section 44701, Federal Aviation Regulations part 121 and part 135 prescribe the terms, conditions, and limitations as are necessary to ensure safety in air transportation. This package incorporates requirements included in the final rule.

These changes were proposed as a result of the National Transportation Safety Board (NTSB) investigation of the May 1996 crash of Valujet flight 592. The NTSB issued a number of Safety Recommendations to the FAA to strengthen, clarify, and amend air carrier hazardous materials training and manual requirements.

The Federal Aviation Regulations require air operators engaging in common carriage air transportation (air carriers) to have in force a certificate and operations specifications that prescribe the authorizations, limitations, and procedures under which each kind of operation must be conducted. The FAA is amending §119.49 (a)(13) to provide that a certificate holder's operations specifications must include either an authorization permitting the certificate holder to handle and transport hazmat (will-carry certificate holder) or a prohibition against handling and transporting hazmat (will-not-carry certificate holder). The current regulations have not been changed significantly since their adoption over 25 years ago. The last amendments to the FAA regulations governing hazardous materials training for part 121 operators were adopted in 1980, and for part 135 operators the last amendments were part of a complete rewrite in 1978.

Each part 121 and part 135 certificate holder keeps current a manual for use in conducting its operations. This rulemaking clarifies and amends current

hazardous materials training and manual requirements for part 121 and part 135 certificate holders. It sets clear training standards and ensures uniform compliance with these training requirements. These manual and training regulations in part 121 and part 135 now incorporate most of the guidance that is currently contained in Advisory Circulars (ACs). The FAA believes that training and manual requirements for part 121 and part 135 certificate holders should be updated to more accurately reflect current industry practices, increase harmonization with the ICAO Technical Instructions, and increase the continuity of FAA Advisory Circulars and FAA certification practices.

- Hazardous Material Training Program--Affects all part 121 and part 135 air carriers. 14 CFR 121.401 and 135.323 currently require that operators shall establish and implement a training program that satisfies the requirements that each person assigned duties for the carriage and handling of hazardous materials is adequately trained to perform their assigned duties.

In addition, NTSB's report on ValuJet Flight 592 and the FAA's experience with repair stations resulted in amending the part 145 certification requirements so that the FAA could increase its oversight of the training that repair stations are required to conduct to comply with 49 CFR part 172. This rule requires part 145 certificate holders to validate that "hazmat employees" as defined in 49 CFR Parts 100 through 185, have received hazardous materials training as required in Subpart H of 49 CFR Part 172. The FAA is also requiring communication between the part 121 and part 135 certificate holders and the part 145 repair stations regarding the will-carry or will-not-carry status of the certificate holder.

- A part 145 repair station must provide a certification to the FAA that all hazmat employees have been trained in accordance with 49 CFR prior to a part 145 certificate or change of rating being issued. This notification requirement affects only repair stations that are regulated by 49 CFR Parts 100 through 180.
- A part 121 and part 135 certificate holder must ensure that each repair station performing work for, or on behalf of, the certificate holder's is notified in writing, and is aware of, the certificate holder's policies and operations specification authorization permitting or prohibition against the acceptance, rejection, handling, storage incidental to transport, and carriage of hazardous materials, including company material. This affects only the part 121 and part 135 certificate holders who contract with a repair station regulated by 49 CFR parts 100 through 180.

- The part 145 repair station notified by the part 121 and part 135 certificate holder is required to verify receipt of the notification to the part 121 and 135 certificate holder. This notification requirement affects only repair stations that are regulated by 49 CFR parts 100 through 180.
- Part 145 repair stations must notify their employees, contractors, or subcontractors that handle or replace aircraft components or other items regulated by 49 CFR parts 171 through 180 of the will-carry or will-not-carry status of the certificate holders for which the repair station does work. This notification requirement affects only repair stations that are regulated by 49 CFR parts 100 through 180.

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.

Currently the FAA, as prescribed in 14 CFR parts 121 and 135, requires certificate holders to submit manuals and hazmat training programs, or a revision to an approved hazmat training program to obtain initial and final approval as part of the FAA certification process. These may be electronic and in outline form unless it is necessary to see the full outline of the hazmat training program to understand the content. Original certification is completed in accordance with part 119. Continuing certification is completed in accordance with part 121 and part 135. The FAA uses the approval process to determine compliance of the hazmat training programs with the applicable regulations, national policies and safe operating practices. The FAA must ensure that the documents adequately establish safe operating procedures.

- Sections 121.905 (e) and 135.505(e) require a certificate holder to ensure that each repair station performing work on the certificate holder's behalf is notified in writing, and is aware of, the certificate holder's policies and operations specification authorization permitting or prohibition against the acceptance, rejection, handling, storage incidental to transport, and carriage of hazardous materials, including company material. This notification requirement applies only to repair stations that are regulated by 49 CFR parts 171 through 180. This affects only the part 121 and part 135 certificate holders who contract with a repair station regulated by 49 CFR parts 171 through 180. Some repair stations are also certificated under part 121 or part 135, so the notification would be in place currently.
- Section 145.53 requires a certification that all hazmat employees have been trained in accordance with 49 CFR be provided to the FAA prior to a part 145 certificate or change of rating being issued. This

notification requirement affects only repair stations that are regulated by 49 CFR parts 100 through 185.

- Section 145.206 (a) requires each repair station notified by the part 121 or part 135 certificate holder to verify receipt of the notification to the certificate holder. This notification requirement affects only repair stations that are regulated by 49 CFR parts 100 through 180.
- Section 145.206 (b) requires that repair stations must notify their employees, contractors, or subcontractors that handle or replace aircraft components or other items regulated by 49 CFR parts 100 through 180 of the will-carry or will-not-carry status of the certificate holders for which the repair station performs work for or on behalf of. This notification requirement affects only repair stations that are regulated by 49 CFR parts 171 through 180.

The FAA currently uses the information collected and reviews it to ensure compliance with the hazmat regulations and, if necessary, take enforcement action on violators of the regulations. The certification provided by the part 145 repair stations to FAA prior to issuing a certificate helps to provide oversight to ensure that a repair station is aware of, and has completed, the required hazmat training at the time of certification or receiving a change in rating.

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.

The burden associated with part 121 and part 135 requirements is recordkeeping. However, in the final rule, the requirement to conduct training has been reduced from annually to every 24 months; therefore, the requirement to record the completion of training will also be only every 24 months.

The FAA has encouraged the use of automation by part 121, part 135, and part 145 certificate holders to reduce their burdens. Operations Specifications are now automated and issued by the FAA. In compliance with the Government Paperwork Elimination Act (GPEA), the recordkeeping requirement in §121.907 and §135.507 for employee training records are permitted to be in 100% electronic format and produced upon request at the location of the employees. In addition, the content of the records is identical to the content required in 49 CFR 172.704 (d), ICAO TI 1;4.2.4, and IATA DGR 1;1.5.4.1. One set of records will provide compliance with all of the hazmat regulatory recordkeeping requirements.

In §§121.905 and 135.505, the requirement for written notification can be complied with in different ways (through regular mail, overnight mail, facsimile, email, etc.). However, written notification ensures that the certificate holder has done something verifiable to communicate the status.

In §145.206, the notification of the repair station employees as to the will-carry or will-not-carry status of the certificate holders for which the repair station performs work is not required to be in a mandated format or delivery method. Also, the repair station must verify to the certificate holder that it has received the required notification. This also is not required in a mandated format.

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

We have reviewed our other FAA public-use reports and find no duplication. Also, we know of no other agency collecting the information from part 121, part 135, or part 145 certificate holders prescribing the terms, conditions, and limitations of their of their operating certificate. This information is to ensure air transportation safety.

The information collected is only available from the applicant applying for an operating certificate. The information is not available from any other source.

However, to enable the certificate holders to use the same records for compliance with the recordkeeping requirement in §121.907 and §135.507 and 49 CFR 172.704 (d), we are requiring the same information be recorded. Therefore, the same record will comply with both regulations.

5. If the collection of information impacts small businesses of other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605 (b), the Federal Aviation Administration certifies that this rule will not have a significant economic impact on a substantial number of small businesses.

Applicants for operating certificates, whether small business or large, are guided through the administrative requirements of parts 121, 135, and 145 by local district offices assigned certificate responsibilities. The actual operations specifications are automated and the paragraphs issued are only those appropriate to a specific carrier's operation.

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

The frequency of information collection is dependent on the applicant's business plan and the need for operators who have obtained air carrier certification to undergo recertification if they plan to conduct new kinds of operations. The applicant who requests certification benefits, for the most part, determines the frequency of information.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2)(i)-(viii).

There are no special circumstances. This collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2)(i)-(viii).

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, requiring 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 to these comments.

A 60 Day notice for public comments was published in the Federal Register on August 24, 2011, vol. 76, no. 164, page 53024-53025. No comments were received.

9. Explain any decision to provide any payment or gift to respondents and the basis for the assurance in statute, regulation, or agency policy.

There are no monetary considerations for this collection of information.

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

Respondents have not been given assurances 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 of the collection of information.

The FAA has analyzed the expected cost of this regulatory proposal for a 10-year period, from 2006 through 2015.

Manuals

There is a one-time cost to revise manuals. Manuals are revised when there are regulatory updates so this presently is an ongoing process for the carrier. The carrier is only required to submit the revision unless the entire program is necessary to understand the content. To do a minimal revision, the FAA estimates that part 121 and large part 135 operators will require 8 hours to revise their manuals and small part 135 operators can accomplish this task in 4 hours. However, 321 operators will need to substantially revise their manuals due to the final rule. The estimated number of hours needed for the additional revisions ranges from 40 hours for large part 121 operators to 8 hours for small part 135 operators. Hourly wage costs, including benefits, for making the revision range from \$28.99 to \$66.91 per hour.

| Hazardous Materials Manual Revision Cost, Years 1 - 10 | | | | | | | |
|--|-------------|------------------|---|---|---------|-------------|-----------|
| Category | Total Firms | Minimal Revision | Affected Firms for Substantial Revision | Additional Hours for Substantial Revision | Wages | Hour Burden | Cost |
| Large Part 121 | 36 | 8 | 3 | 40 | \$66.91 | 408 | \$27,299 |
| Small Part 121 | 87 | 8 | 8 | 20 | \$43.21 | 856 | \$36,988 |
| Large Part 135 | 3 | 8 | 0 | 20 | \$43.21 | 24 | \$1,037 |
| Small Part 135 | 2,536 | 4 | 310 | 8 | \$28.99 | 12,624 | \$365,970 |
| Total | 2,662 | | 321 | | | 13,912 | \$431,294 |

| Annual Manual Revision Costs | | |
|------------------------------|--------------------|--------------------|
| Category | Annual Hour Burden | Annual Cost Burden |
| Large Part 121 | 40.8 | \$2,730 |
| Small Part 121 | 85.6 | \$3,699 |
| Large Part 135 | 2.4 | \$104 |
| Small Part 135 | 1,262.4 | \$36,597 |
| Total | 1,391.2 | \$43,130 |

Recordkeeping

The data required in the recordkeeping requirements for part 119 certificate holders contained in the final rule mirror those requirements contained in 49 CFR 172.704 and the ICAO Recommendations and IATA DGR. In its analysis, the FAA assumes that many of these operators will maintain computer-based records. The FAA estimates that a large firm will require three days' staff time for an administrator, an assistant, and a computer programmer to change a computer database. A small part 121 firm, which has less extensive recordkeeping procedures, will use only two days' of an administrator's time plus an assistant while a small part 135 firm will only use one day. The cost of restructuring databases is estimated to be \$791,000

| | Firms | Hours/Firm | Wages | Cost |
|----------------------|-------|------------|---------|-----------|
| Large Part 121 Firms | | | | |
| Administrator | | 24 | \$66.91 | \$57,810 |
| Assistant | | 24 | \$19.02 | \$16,433 |
| Programmer | | 24 | \$47.01 | \$40,617 |
| Total | 36 | 2,592 | | \$114,860 |
| Small Part 121 Firms | | | | |
| Administrator | | 16 | \$43.21 | \$60,148 |
| Assistant | | 16 | \$15.09 | \$21,005 |
| Total | 87 | 2,784 | | \$81,153 |
| All Part 121 Firms | 123 | | | \$196,013 |
| Large Part 135 Firms | | | | |
| Administrator | | 24 | \$43.21 | \$3,111 |
| Assistant | | 24 | \$15.09 | \$1,086 |

| | | | | |
|----------------------|-------|--------|---------|-----------|
| Programmer | | 24 | \$36.41 | \$2,622 |
| Total | 3 | 216 | | \$6,819 |
| Small Part 135 Firms | | | | |
| Administrator | 2,536 | 8 | \$28.99 | \$588,149 |
| All Part 135 Firms | 2,539 | 20,288 | | \$594,968 |
| Total | 2,662 | | | \$790,981 |

| Annual Recordkeeping Costs | | |
|----------------------------|-------------|-------------|
| Category | Hour Burden | Cost Burden |
| Large Part 121 | 259.2 | \$11,486 |
| Small Part 121 | 278.4 | \$8,115 |
| Large Part 135 | 21.6 | \$682 |
| Small Part 135 | 2,028.8 | \$58,815 |
| Total | 2,588.0 | \$79,098 |

While there is a current requirement to maintain a record of the initial and recurrent hazardous materials training given to air carrier personnel, the FAA believes that, in view of the specific requirements proposed in this rule, the recordkeeping burden will be increased. The FAA estimates that updating training records will take a clerk five minutes per employee receiving hazardous materials training every 24 months. The hourly wage of the clerk, including benefits is estimated to be \$19.02, and \$15.09 for part 121 operators and part 135 operators, respectively.

| Annual Recording Costs | | | | | |
|------------------------|------------------|---------------|--------------------|---------|----------|
| | No. of Employees | Time in Hours | Total Annual Hours | Wage | Cost |
| Part 121 Carriers | 12,623 | 0.083 | 1,048 | \$19.02 | \$20,071 |
| Part 135 Carriers | 1,539 | 0.083 | 128 | \$15.09 | \$1,940 |

Notification

The annual cost of the notification requirement applicable to part 119 certificate holders operating under part 121 and part 135 is estimated at \$22,800. The final rule requires the part 121 and part 135 certificate holders to notify part 145 repair stations performing work on their behalf and regulated under 49 CFR 171 – 180 of the part 121 or part 135 certificate holder’s will-carry or will-not-carry status. The FAA estimates that the amount of time required to prepare and approve the notification and verification varies depending on the size of the part 121 or part 135 certificate holder and ranges from one hour for the largest carriers to fifteen minutes for the smallest carriers. According to FAA staff, the number of part 145 repair stations used by part 119 certificate holders largely depends upon the size of the part 121 or part 135 certificate holder. In addition to the initial notification

cost, annual costs will also be incurred over the 10-year period. The FAA estimates that part 121 or part 135 certificate holders will have to notify 20 percent of the initial number of repair stations annually over the 10-year period as part 121 and part 135 certificate holders may change repair stations or may change their own will-carry or will-not-carry status. The annualized burden of this requirement is summarized below.

| First Year Hour Burden and Cost | | | | | |
|---------------------------------|---------|-----------|--------|-------------|-----------|
| | Initial | Follow-up | Total | Hourly Wage | Cost |
| Part 121 | 3988 | 398.8 | 4386.8 | \$19.02 | \$75,853 |
| Part 135 | 2539 | 253.9 | 2792.9 | \$15.09 | \$38,314 |
| Total | 6527 | 652.7 | 7179.7 | | \$114,167 |

| Years 2 - 10 Annual Hour Burden | | | |
|---------------------------------|-----------|-------------|----------|
| | Follow-up | Hourly Wage | Cost |
| Part 121 | 398.8 | \$19.02 | \$7,585 |
| Part 135 | 253.9 | \$15.09 | \$3,831 |
| Total | 652.7 | | \$11,416 |

| Annual Notification Hour and Cost Burden | | | |
|--|-------------|-------------|----------|
| | Hour Burden | Hourly Wage | Cost |
| Part 121 | 797.6 | \$19.02 | \$15,170 |
| Part 135 | 507.8 | \$15.09 | \$7,663 |
| Total | 1,305.4 | | \$22,833 |

Summary of Costs to Part 121 and Part 135 Operators

The total annual cost savings for part 121 and 135 operators to comply with the proposed rule are estimated at \$1.6 million and \$972,000, respectively, as summarized below.

| Annual Costs to Part 121 and Part 135 | | | | |
|---------------------------------------|--------------------|--------------------|--------------------|--------------------|
| Cost Area | Time Burden | | Cost Burden | |
| | Part 121 Operators | Part 135 Operators | Part 121 Operators | Part 135 Operators |
| Manuals | 126.4 | 1,264.8 | \$6,429 | \$36,701 |
| Recordkeeping | 537.6 | 2,050.4 | \$19,601 | \$59,497 |
| Recording | 1,048.0 | 128.0 | \$20,071 | \$1,940 |
| Notifications | 797.6 | 507.8 | \$15,170 | \$7,663 |
| Total Annual Burden | 2,509.6 | 3,951.0 | \$61,271 | \$105,801 |

Section 145.53 will cross-reference the existing training requirement in 49 CFR 172.704 for repair stations that meet the definition of a hazmat employer under 49 CFR 171.8. The FAA estimates that this requirement will cost each applicant \$60 and that approximately 110 repair stations will be subject to this provision annually. The time burden and associated costs are shown in the next table.

| Number of Firms | Estimated Hours per Firm | Hourly Wage | Annual Hour Burden | Annual Cost |
|-----------------|--------------------------|-------------|--------------------|-------------|
| 110 | 4 | \$15.00 | 440 | \$6,600 |

Section 145.206 will require repair stations to notify its employees, contractors, or subcontractors that handle or replace aircraft components or other items regulated by 49 CFR parts 171 through 180 of each part 121 and 135 certificated holder as to the certificate holder’s “will” or “will not” carry status. The FAA estimates that 2,006 independent domestic repair stations serve part 121 and 135 air carriers and will be subject to the notification requirement. The FAA estimates that notifying workers of their customers’ hazmat status will cost small repair stations with less than 25 employees \$26 annually to post notices and have supervisors inform their staff. The annual cost to medium repair stations (25-1,399 employees) is estimated to be \$103 and to large repair stations (1,400+ employees) is estimated to be \$257.

| Size of Firm | Number of Firms | Cost per Firm | Annual Cost |
|--------------|-----------------|---------------|-------------|
| Small | 1,577 | \$26 | \$41,002 |
| Medium | 358 | \$103 | \$36,874 |
| Large | 12 | \$257 | \$3,084 |
| Total | | | \$80,960 |

Summary of Costs to Part 145 Repair Stations

| Annual Costs to Part 145 Repair Stations | | |
|--|-------------|-------------|
| Cost Area | Time Burden | Cost Burden |
| Certification Submission | 440 | \$6,600 |
| Notification | 0 | \$80,960 |
| Total | 440 | \$87,560 |

SUMMARY OF COSTS

The following table summarizes the estimated annual burden to Part 121 and Part 135 operators and Part 145 repair stations to comply with the administrative and training provisions.

| Total Annual Burden | | |
|---------------------|-------------|-------------|
| Type | Time Burden | Cost Burden |
| Part 121 | 2,509.6 | \$61,271 |
| Part 135 | 3,951.0 | \$105,801 |
| Part 145 | 440 | \$87,560 |
| Total | 6,900.6 | \$254,632 |

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

There are additional costs not already identified in question 12. The additional costs result from the training costs associated with the deficient part 121 and part 135 operators and are a cost of \$200 to order the course, and a \$16 handling fee, per employee, every other year. The costs are summarized below.

Initial and Recurrent Hazardous Materials Training Cost

| Type | No. Of Firms | Average Impacted Employees Per Firm | Total Impacted Employees | Cost per Course | Annual Cost |
|-----------------------------------|--------------|-------------------------------------|--------------------------|-----------------|-------------|
| Part 121 (Large "Will Not Carry") | 2 | 558 | 1,116 | \$216 | \$120,528 |
| Part 121 (Small "Will Not Carry") | 4 | 16 | 64 | \$216 | \$6,912 |
| Part 135 (Large "Will Not Carry") | 1 | 56 | 56 | \$216 | \$6,048 |
| Part 135 (Small "Will Carry") | 75 | 1 | 75 | \$216 | \$8,100 |
| Part 135 ("Small Will Not Carry") | 724 | 1 | 724 | \$216 | \$78,192 |
| Total | 806 | | 2,035 | | \$219,780 |

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

The FAA anticipates that this rule will not impose an additional cost on the Federal Government for two reasons: (1) No additional inspectors/personnel will be hired to address administrative and operational demands of the rule and (2) All of the work demands of the rule will fall within the routine administrative, regulatory, and operational functions of the FAA.

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

This is an extension of a currently approved collection. There are no changes.

16. For collections of information whose results are planned to be published, outlined 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.

The FAA is not requesting an exception.

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

There are no exceptions.