

**SUPPORTING STATEMENT
FOR PAPERWORK REDUCTION ACT SUBMISSION**

Foreign Air Carrier Application for Statement of Authorization

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the information collection entitled "Foreign Air Carrier Application for Statement of Authorization": OMB Control No. 2106-0035.

Part A. Justification

Explain the circumstances that make the collection information necessary.

14 CFR Part 212 provides a mechanism for a foreign air carrier to obtain Department of Transportation (DOT) permission, in the form of a 'statement of authorization,' to operate certain types of charter operations that are not encompassed in the bilateral aviation agreement that may exist between the United States and that foreign air carrier's homeland. Because of their extrabilateral nature, these operations represent a valuable economic privilege for the foreign air carrier involved. In granting authority to a foreign air carrier to conduct such operations, DOT must, under the provisions of Part 212, make a finding that the operations are in the public interest. A crucial factor DOT considers is reciprocity on the part of the foreign air carrier's homeland; that is, whether the foreign air carrier's homeland is prepared to grant similar reciprocal economic aviation benefits to U.S. air carrier. The collection at issue here is designed to provide DOT the necessary information to make this required public interest determination.

Foreign air carriers have used OST Form 4540 for over twenty-five years to apply affirmatively for statements of authorization under 14 CFR Part 212 to conduct third- and fourth-freedom charter operations that require prior approval, long-term wet-leases, and fifth-freedom charter operations. The form collects minimal, basic information to identify the type of operation, the foreign air carrier(s) involved, a certification from the applicant foreign air carrier's homeland attesting to the existence of reciprocity for U.S. air carriers, and data regarding the number of homeland-U.S. charters the applicant foreign air carrier has conducted in the previous year.

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

DOT analysts must use the information collected to determine if applications for statements of authorization meet the public interest requirements necessary to approve such applications. Foreign and U.S. air carriers and their respective representatives may use such information to evaluate a given application and determine whether to file comments in response to that application, and whether such comments should support or oppose the application.

2. 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.

Traditionally, the DOT has accepted applications for statements of authorization via facsimile or email. Since these applications are undocketed, this is the most efficient method of information exchange. Given the short-notice nature of these applications, their lack of statutory authorization to be docketed, and the delays experienced in processing docketed applications, using the Federal Docket Management System (FDMS) at www.regulations.gov to process such applications is not feasible, at this time.

3. Describe efforts to identify duplication.

We recognize that requiring that applicant carriers submit certification of reciprocity from their homeland governments could result in duplicative efforts by several carriers from the same homeland to obtain such certification. In practice, however, this has not been a problem because reciprocity certifications are placed in a public Docket in the FDMS, and foreign air carriers, and their homeland governments, have accessed this information and have not made duplicative filings.

We acknowledge that foreign air carriers currently provide information to the Department regarding third- and fourth-freedom operations in the form of T-100 data, but note that the data are not readily accessible due to the delay in T-100 data availability. The T-100 program was not designed to provide a readily accessible data base for DOT's public interest evaluations in the context of the often short-notice, quick turnaround filings that characterize DOT's statement of authorization process.

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

Given the nature of the international aviation industry, it is highly unlikely that the collection affects small businesses or other small entities, as the collection directly affects foreign air carriers. In order to reduce the burden on applicants, whether small entities or not, DOT has kept the information to be provided by applicant foreign air carriers to an absolute minimum.

5. Describe the consequences 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.

As noted in the response to #1 above, the authority which foreign air carriers must seek using Form OST 4540 represents a valuable economic privilege to those foreign air carriers. In many instances the authority is extrabilateral; that is, it is not a right that is guaranteed to the foreign air carrier under a bilateral aviation agreement. If the collection were not conducted; i.e., if foreign air carriers could conduct the affected operations without prior DOT approval, DOT would lose the ability to assure that those operations were being conducted in the public interest. Such a situation would cause competitive harm to the U.S. air carrier industry, allowing some foreign air carriers to conduct these operations in situations where U.S. carriers were being denied

reciprocal benefits from those foreign air carriers' homelands. Lack of the collection would also deny the public the ability to review and file public comments on the proposed operations by foreign air carriers. Given the role that this collection plays in our public interest determinations, and the absence of equivalent alternatives to the collection, we conclude that whatever burden may be entailed by this requirement is clearly outweighed by the public benefits produced.

6. 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 impeded sharing of data with other agencies; or**
- **Requiring respondents to submit proprietary trade secret, 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.**

Foreign air carriers use OST Form 4540 to apply for statements of authorization under 14 CFR Part 212 to conduct ad hoc third- and fourth-freedom charter operations that require prior approval, long-term wet-leases, and fifth-freedom charter operations. The form collects minimal, basic information required to identify the type of operation, the carrier(s) involved, and information necessary to make the required public interest determination.

As such, applicants may have to report the required information to the agency more often than quarterly because they may choose to apply for more than one operation requiring prior DOT approval within any given three-month period.

7. 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 action taken by the agency in response to those comments. Specifically address comments received on the cost and hour burden.

On April 26, 2013, DOT issued a notice and request for comments on the extension of this information collection (78 FR 25781). DOT established a public docket to receive comments (Docket DOT-OST-2013-0074 at www.regulations.gov). Comments were due June 25, 2013. No comments were received.

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

No such decisions providing for payment or gift are made in response to OST Form 4540.

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

No assurances of confidentiality are provided to respondents on the basis for assurances in statute, regulation, or agency policy. In fact, the data provided are available for public inspection.

10. 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 that agency considers that questions necessary, the specific uses to be made of the information and the explanation to be given to persons from whom the information is requested, and any steps taken to obtain their consent.

There are no sensitive questions.

11. Provide estimates of the hour burden of the collection of information.

We estimate that the industry-wide total hour burden for this collection to be approximately 1000 hours or approximately 2.25 hours per application. Conservatively, we estimate the compilation of background information will require 1.75 hours, and the completion and submission of OST Form 4540 will require thirty (30) minutes.

Applicants use OST Form 4540 to request statements of authorization to conduct numerous types of operations authorized under 14 CFR Part 212. The form requires basic information regarding the foreign air carrier(s) conducting the operation, the party filing the form, the operations being conducted, the number of third- and fourth-freedom flights conducted in the last twelve-month period, and certification of reciprocity from the foreign air carrier's homeland government.

Reporting the number of third- and fourth-freedom operations conducted by an applicant foreign air carrier will require collection of flight data, and detailed analysis to determine which flights conducted by the foreign air carrier are third- and fourth-freedom. Applicants should be able to use data collected for the T-100 program to provide this information. As discussed in the paperwork reduction act justification for that program, the Bureau of Transportation Statistics (BTS) provides carriers with a computer program that allows them to compile and monitor,

among other things, flight origin and destination data.¹ We estimated that foreign air carriers will require 1.25 hours per application² to compile and analyze the data necessary to disclose the number of third- and fourth-freedom flights conducted within the twelve-month period preceding the filing of an application.

Foreign air carriers will also have to provide evidence that their homeland government will afford reciprocity to U.S. air carriers seeking authority for the similar fifth-, sixth- and seventh-freedom operations. Foreign air carriers may cite certifications submitted by foreign air carriers from the same homeland if that homeland issued such certification within the preceding six-month period. Approximately 100 foreign air carriers from roughly 30 distinct homelands use OST Form 4540 to apply for statements of authorization annually. We estimate that one foreign air carrier from any given homeland will expend roughly 4 hours every six-months to obtain certification from its homeland governments.³ We have apportioned 30 minutes to each application to account for the time required to obtain certifications from homeland governments.

We have no empirical data to indicate how much time is required for a person to complete OST Form 4540; however, anecdotal evidence reveals that respondents spend thirty (30) minutes or less completing the form and brief justification. In some cases, respondents spend a limited amount of time, less than ten (10) minutes, reviewing the form before sending it via facsimile or email to the Department. In the interest of providing a conservative estimate so as to not understate the burden hours, we estimate the hour burden for completing OST Form 4540 as thirty (30) minutes.

12. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection information.

The cost burden associated with this revised information collection will have minimal impact on foreign air carriers. We estimate, conservatively, that the information collection associated with OST Form 4540 currently costs foreign air carriers approximately \$400,000. We are aware that some attorneys charge as much as \$1000 dollars per application, and foreign air carriers file approximately 430 applications annually. Many foreign air carriers, however, complete applications using internal staff or law firms that do not charge a premium for individual applications.

We supply a conservative estimate so as not to understate the cost burden, however, actual costs incurred by any single applicant may be less than estimated here.

13. Provide estimated or annualized cost the Federal Government.

¹ The rulemaking associated with the T-100 program can be found on the FDMS at www.regulations.gov, in Docket DOT-OST-1998-4043. Information regarding burden hours is on file in the Office of Aviation Analysis (X-50).

² The Office of Aviation Analysis (X-50) estimated that small carriers would require 1 burden hour per report, and large carriers would require 3 burden hours per report to analyze and report T-100 program data. Considering that the data required in this information collection can be derived from data already collected, we have taken an average of the estimated time required, and conservatively shortened the time by 45 minutes because no new data entry will be required.

³ Calculation: (4 burden hours per application) x (30 foreign homelands) x (2 requests per year) = 240 annual burden hours. Apportioning 240 annual burden hours equally among an average of 430 applications annually = approximately 30 burden minutes per application.

No annualized costs to the Federal Government are associated with the changes to OST Form 4540.

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

There are no program changes or adjustments reported.

15. 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 beginnings and ending dates of the collection of information, completion of report, publication dates, and other actions.

No results associated with this collection will be published.

16. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Approval is not required.

17. Explain each of the exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions." Of OMB Form 83-I.

No exceptions will be requested. Note that exception (i) does not apply in this instance because the collection does not use any statistical survey methodologies.