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Howard Shelanski
Administrator

Andrei Greenawalt
Associate Administrator

Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Re: Generic Clearance of OMB Control No. 2120-0056

Dear Messrs. Shelanski and Greenawalt:

The Aeronautical Repair Station Association (ARSA) represents the aviation maintenance industry; its members include aircraft operators, aviation maintenance facilities and individuals certificated by the Federal Aviation Administration (FAA). Accordingly, ARSA members are directly impacted by the information collections covered by Office of Management and Budget (OMB) Control No. 2120-0056, titled Report of Inspections Required by Airworthiness Directives (AD).

ARSA respectfully requests that the Office of Information and Regulatory Affairs (OIRA) withdraw its approval of the generic Information Collection Request (ICR) for OMB Control No. 2120-0056. Alternatively, the association asks that the ICR not be renewed.

(I) Information collection requirements

The Paperwork Reduction Act¹ (PRA) requires that an agency seek public comment² and obtain OMB approval for any collections of information. Furthermore, the PRA

¹ Paperwork Reduction Act, 44 U.S.C. § 3501, *et. seq.*

² See § 3506 stating that an agency must "...consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

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mandates that each collection of information be evaluated for criteria including “a specific, objectively supported estimate of burden.”³

The statute does not explicitly allow generic ICRs; rather, an OMB memorandum dated May 28, 2010 (“Memo”) provides guidance on their availability and usage.⁴ The Memo specifically limits generic ICRs to information collections that are “usually voluntary, low-burden, and uncontroversial.”⁵

Further, the Memo states that “a generic ICR does not permit the public to examine the details of each individual collection.”⁶ Therefore, approval is only applicable: “when (1) the need for and the overall practical utility of the data collection can be evaluated in advance, as part of the review of the proposed plan, but (2) the agency cannot determine the details of the specific individual collections until a later time.”⁷

(II) Specific objections

(1) The generic approval does not comply with PRA and OMB standards.

Contrary to the Memo’s criteria, the specific information collections covered by OMB Control No. 2120-0056 are not voluntary. The FAA issues airworthiness directives (ADs) under its general and specific rulemaking authority⁸ when an explicit unsafe condition is discovered in a specific product and that exact condition is likely to exist or develop in other products of the same type design. Any collection efforts included in the final rule, i.e., the AD, become mandatory.

Bootstrapping the collection effort within the FAA’s rulemaking does not provide the public, the OMB or OIRA with the information required by the PRA. Indeed, because of the unique nature of each unsafe condition, each IRC is distinctive, with varying degrees of burden. The rulemaking and/or the requirement for collecting and reporting

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- (ii) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information;
 - (iii) enhance the quality, utility, and clarity of the information to be collected; and
 - (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology....”

³ Paperwork Reduction Act, 44 U.S.C. § 3506(c).

⁴ OMB, Memorandum for the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies, *Paperwork Reduction Act – Generic Clearances* (May 28, 2010), p. 1.

⁵ *Id.*

⁶ *Id.* at p. 2.

⁷ *Id.*

⁸ See generally, Administrative Procedure Act, 5 U.S.C. §§ 551-59; see also, 49 U.S.C. § 106 (authorizing “the promulgation of regulations, rules, orders, circulars, bulletins, and other official publications of the Administration”).

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information can be controversial. For instance, the FAA recently issued a proposed AD⁹ that includes an information collection that takes between five and nine hours:¹⁰ a vast departure from the estimated five minutes. This example is an illustration of the unique nature of each AD, and highlights the fact that this type of information collection is not suitable for a generic ICR.

(2) The FAA's justification submission is incomplete and incorrect.

The FAA's justification in its submission to OMB for approval of information collections required by any and all Airworthiness Directives (ADs) states:

*If the condition is serious enough and we need more information to develop corrective action, we may require specific information from aircraft owners/operators [...] We may also require reports if the unsafe condition results from manufacturing quality control problems. We need these reports to determine the scope of the problem and how adequate the manufacturer's corrective actions are.*¹¹

The FAA intimates that it will only collect information when unsure of the problem and scope and the data will be needed to develop corrective action. The "need for and overall practical utility" is not known until the rulemaking is being contemplated. Furthermore, during the development of a rulemaking under the APA guarantee that each collection will (a) be unique, (b) require varying amounts of data, and (c) be known in advance.

Further, under the FAA's regulations, the owner/operator is not the only person required to make the report. Indeed, only persons authorized under 14 CFR part 43¹² may perform the inspections and make the findings required to complete the collection activities. Owner/operators have no authority to perform the actions necessary to obtain the information required by the collection activity.

(3) The FAA's submission statement that "[w]e have no other way to require reports of information," is blatantly false.

Title 14 CFR parts 121, 135, and 145 lay out specific requirements for reporting serious "failures, malfunctions and defects to the agency."¹³ Furthermore, owner/operators must

⁹ Docket No. FAA-2012-0002

¹⁰ See, ARSA Comments, *Reporting Burden for OMB Control Number 2120-0056, Proposed Airworthiness Directive Docket No. FAA-2012-0002* (January 14, 2014).

¹¹ *Report of Inspection Required by Airworthiness Directives*, Title 14 CFR part 39, OMB No. 2120-0056, at pp. 1-2.

¹² See particularly, 14 CFR § 43.3.

¹³ 14 CFR §§ 121.703, 121.705, 135.415, 135.417, 145.221, 91.417(a)(v).

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report incidents and accidents to the National Transportation Safety Board.¹⁴ Thus, there are many other ways the agency collects safety information.

(III) Conclusion

The OIRA has approved this collection request contrary to the PRA and the OMB guidance on generic clearances. FAA regulations contradict the statements made in its submission to the OMB for approval of information collections for any and all ADs. Each OMB Control No. 2120-0056 collection is required by a rulemaking; the generic collection approval is contrary to the letter and spirit of both the law and the OMB Memo, and should be withdrawn, or at the very least not renewed for a generic purpose.

Indeed, the approval can easily be removed since the FAA only uses it in limited circumstances. In fact, the FAA's stated reason for requiring these information collections is that it needs "more information to develop corrective action... if the unsafe condition results from manufacturing quality control problems." The FAA would be aware of these types of situations in sufficient time to apply for an approval number under the standard PRA clearance process.

Your Servant,



Sarah MacLeod
Executive Director

¹⁴ 49 CFR § 830.5.