



4910-13

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2018-1051]

Agency Information Collection Activities: Request for Comments; Clearance of a New Approval of Information Collection: Formal Complaints Collection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about its intention to request the Office of Management and Budget (OMB) approval for an existing information collection. This collection involves the filing of a complaint with the FAA alleging a violation of any requirement, rule, regulation, or order issued under certain statutes within the jurisdiction of the FAA. The FAA will use the information collected to determine if the alleged violation warrants investigation or action.

DATES: Written comments should be submitted by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Cole R. Milliard, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591

By fax: 202-267-5106

FOR FURTHER INFORMATION CONTACT: Cole R. Milliard by email at: Cole.Milliard@faa.gov; phone 202-267-3452.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the FAA's performance; (b)

the accuracy of the estimated burden; (c) ways for the FAA to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-XXXX

Title: Formal Complaints Collection

Form Numbers: N/A

Type of Review: New clearance of an existing information collection

Background: The FAA issued a notice of proposed rulemaking (NPRM) to revise 14 CFR part 13. The NPRM published in the *Federal Register* on February 12, 2019 (84 FR 3614). The NPRM proposed to update the procedural rules governing FAA investigations and enforcement actions. The proposed revisions include updates to statutory and regulatory references, updates to agency organizational structure, elimination of inconsistencies, clarification of ambiguity, increases in efficiency, and improved readability. Section 13.5, currently and as proposed in the NPRM, allows any person to file a formal complaint with the FAA Administrator regarding a person's violation of 49 U.S.C. subtitle VII, 49 U.S.C. chapter 51, or any rule, regulation, or order issued under those statutes. Thus, the overall burden associated with submission and processing of these complaints is not new. It is also optional, as there is no obligation for any individual to file a formal complaint.

As revised in proposed 14 CFR 13.5(b), a formal complaint must: (1) be submitted to the FAA in writing; (2) be identified as a complaint seeking an appropriate order or other enforcement action; (3) identify the subjects of the complaint; (4) state the specific statute, rule, regulation, or order that each subject allegedly violated; (5) contain a concise but complete statement of the facts relied upon to substantiate each allegation; (6) include the name, address, telephone number, and email of the person filing the complaint; and (7) be signed by the person filing the complaint or an authorized representative. After the FAA confirms that the complaint meets these requirements, it sends a copy of the complaint to

the subjects of the complaint and gives them an opportunity to submit a written answer. If a complaint does not meet these requirements, it is considered a report of violation under proposed 14 CFR 13.2.

The FAA uses the information in the complaint and answer to determine if there are reasonable grounds for investigating the complaint. If the FAA determines there are reasonable grounds, the FAA proceeds with an investigation. If not, the FAA may dismiss the complaint and give the reason for dismissal in writing to both the person who filed the complaint and the subjects of the complaint.

Respondents: Formal complaints are typically submitted by an individual or organization. Almost all formal complaints are evenly split between three basic categories (complainant listed first): individual vs. individual, individual vs. organization, and organization vs. organization.

Frequency: The FAA estimates this collection of information would result in about seven formal complaints per year based on FAA data.

Estimated Average Burden per Response: The estimated average burden on the public for each complaint and response under § 13.5 is eight hours, broken down as follows. It would take an individual about four hours to write a formal complaint acceptable under § 13.5. Most of this time would be the research required to determine which laws the subject of the complaint allegedly violated. The second largest amount of time would be devoted to writing the “concise but complete” statement of facts substantiating the complaint. After the FAA reviews the complaint and confirms it meets the requirements, each subject of the complaint would have an opportunity to submit a written answer. The FAA estimates it would take the subject of the complaint about four hours to write an answer to the complaint.

The estimated average burden on the FAA for each complaint is eight hours, broken down as follows. A complaint would take the FAA no more than four hours to review to confirm it meets the requirements as laid out in 14 CFR 13.5(b). The FAA would take an additional hour to send the complaint to the subjects of that complaint. The FAA would then take another estimated three hours to determine if an investigation would be necessary.

Estimated Total Annual Burden:¹ The FAA estimates the total annual combined (public + FAA) annual burden and cost of the information requirements to be about 112 hours and \$7,138.

For the public, the estimated total annual hourly burden would be 56 hours, and the estimated total annual cost burden would be about \$2,036. This burden to the public is calculated as follows. Based on the number of formal complaints the FAA received during the three years preceding preparation of the NPRM, the FAA estimates there would be seven complaints filed per year by seven complainants. Each complaint would take no more than four hours to complete. The annual hourly burden would be 28 hours for the public to submit formal complaints (7 complaints x 4 hours = 28 hours). After the FAA reviews the complaint and confirms it meets the requirements, each subject of the complaint would have an opportunity to submit a written answer. The FAA estimates this would take the subject four hours. The annual hourly burden to the public would be another 28 hours for the subject of the complaint to provide a written answer (7 written answers x 4 hours = 28 hours).² The total annual hourly burden to the public would be 56 hours. Since a complainant and a subject of a complaint could be employed in any occupation, the FAA selected a mean hourly wage rate for all occupations in the United States. The U.S. Bureau of Labor Statistics estimates the mean hourly wage rate of all occupations was \$24.98 in May 2018.³ The FAA estimates the total burdened hourly wage rate is \$36.36 when including full employee benefits.⁴ The total annual cost burden to the public would be about \$2,036 (\$36.36 x 56 hours). In addition to labor hours, the complainants would incur copying and mailing costs for seven annual complaints estimated at \$102.90; or \$52.15 for complainants [(\$.50 for a 5-page complaint, including

¹ For this notice, the FAA used updated figures in its estimate from those used in the NPRM.

² This assumes each formal complaint would meet the requirements as laid out in 14 CFR 13.5(b), so the FAA could send a copy of the complaint to the subject of each complaint to give them an opportunity to submit a written answer.

³ Source: U.S. Bureau of Labor Statistics, May 2018 National Occupational Employment and Wage Estimates, see Occupational Code #00-0000, All Occupations (https://www.bls.gov/oes/2018/may/oes_nat.htm).

⁴ Derived from the U.S. Bureau of Labor Statistics, Employer Costs for Employee Compensation—September 2019 (https://www.bls.gov/news.release/archives/ecec_09172019.pdf, September 17, 2019 release), which indicates that wages and salaries were 68.6% of total employee compensation (salary and benefits) providing a fringe benefit factor of about 1.4577 (=1 ÷ 0.686). The FAA uses this factor to estimate the total “burdened” employee compensation (salary and benefits) hourly wage rate of \$36.36 (= \$24.98 x 1.4577).

attachments, at \$.10 per page⁵ + \$6.95 first-class certified mail with return receipt⁶) x 7] and \$50.75 for subjects of complaints [(\$.30 for a 3-page response, including attachments, at \$.10 per page + \$6.95 first-class certified mail with return receipt) x 7].

For the FAA, the estimated total annual hourly burden would be 56 hours, and the estimated total annual cost burden would be about \$4,846. This burden to the FAA is calculated as follows. The complaint would take the FAA no more than four hours to review to confirm it meets the requirements as laid out in 14 CFR 13.5(b), which results in an annual time burden of 28 hours (7 complaints x 4 hours = 28 hours). The FAA would take an additional hour to send the complaint to the subjects of that complaint, which would add seven hours (7 complaints x 1 hour = 7 hours). The FAA would then take another estimated three hours to determine if an investigation would be necessary, adding 21 hours (7 complaints x 3 hours = 21 hours) to the FAA annual burden. This results in a total annual burden of 56 hours (28 hours + 7 hours + 21 hours = 56 hours) for the FAA. The FAA assumes an FAA hourly wage rate of \$63.51.⁷ The FAA estimates the total burdened FAA hourly wage rate to be \$86.54 when including full civilian employee benefits.⁸ The total annual cost burden to the FAA to review and process the complaint would be \$4,846 (\$86.54 x 56 = \$4,846). In addition to labor hours, the FAA would incur copying and mailing costs for seven annual complaints estimated at \$152.95; or \$52.85 for mailing complaints to subjects [(\$.60 for a 6-page complaint with a cover letter at \$.10 per page + \$6.95 first-class certified mail with return receipt) x 7] and \$100.10 for mailing the agency's determination to both complainants and subjects of complaints [2 x (\$.20 for a 2-page determination letter at \$.10 per page + \$6.95 first-class certified mail with return receipt) x 7].

⁵ https://www.gpo.gov/docs/default-source/gpoexpress-pdf-files/gpo_express_pricelist.pdf

⁶ <https://www.usps.com/ship/insurance-extra-services.htm>

⁷ The FAA assumes that 75% of the work would be performed by an FAA attorney at a grade level 14 step five hourly wage of \$60.83 and 25% by an FAA attorney at a grade level 15 step five hourly wage of \$71.56 (wages based on U.S. Office of Personnel Management General Schedule Salary Data).

⁸ The FAA uses a civilian fringe benefit cost factor of 36.25% (or 1.3625) to estimate the total "burdened" FAA employee compensation (salary and benefits) hourly wage rate of \$86.54 (= \$63.51 x 1.3625). The civilian fringe benefit cost factor is based on guidance from the U.S. Office of Management and Budget (<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2008/m08-13.pdf>).

Issued in Washington, DC on July 30, 2020.

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[FR Doc. 2020-16966 Filed: 8/3/2020 8:45 am; Publication Date: 8/4/2020]