AIR MEDICAL OPERATORS ASSOCIATION
united in safety

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October 10, 2013

The Honorable Michael Huerta
Administrator
Federal Aviation Administration
800 Independence Avenue
Washington, DC

Re: Clearance of a New Approval of Information Collection: Helicopter Air Ambulance Operator Reports; Correction (FAA-2013-0684)

Dear Administrator Huerta:

The Air Medical Operators Association (AMOA) appreciates the opportunity to comment on this important Paper Work Reduction Act (PRA) Notice and thanks the Federal Aviation Administration (FAA) for involving AMOA and its members in the data collection discussion prior to its release. In communications with the FAA team developing the data collection proposal prior to the release of the PRA Notice, AMOA recommended an alternative proposal that we continue to believe will solve many of the problems we find with the FAA's current proposal subject to this notice. We continue to strongly support the alternative we proposed because it will provide a better aviation safety benefit and will be far less economically and administratively burdensome than the FAA's proposal.

The PRA Notice asks "for comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for 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." As our comments will explain, we believe:

(a) the specific methodology proposed for collection is not necessary for the FAA's performance and, indeed, would set a damaging precedent for the aviation regulation process;
(b) the estimated burden far underestimates the actual burden that would result from implementation of the FAA's proposal;
(c) the FAA's mandate may be implemented in a different manner so as to enhance the quality, utility and clarity of the information collected; and
(d) the alternative proposal presented by AMOA would minimize the burden while enhancing the quality of the collected information for purposes of advancing aviation safety.

AMOA's alternative proposal collects data highly relevant and vital to our safety efforts, including:

- The total number of helicopters performing helicopter air ambulance (HAA) flights.
- The total number of HAA flights (from takeoff to landing) and flight hours regardless of whether a patient is on board. The industry collects its own data, but this data is unofficial; without a requirement from the FAA we cannot accurately measure our safety performance.
- The total number of flights flown IFR and the total number of flights flown in night conditions.
- The total number of flight requests and the number of those requests accepted.

Discussion

Air medical operators have long advocated the establishment of an FAA operational data collection requirement and supported the inclusion of the HEMS data collection requirement in Section 306 of the "FAA Modernization and Reform Act of 2012", codified at 49 USC §44731("the Act" or "Section 44731"). While we continue to support the concept of data collection, and believe the FAA is the only agency with the authority and expertise to collect, store, and analyze this data effectively, we believe the proposal made by the FAA in the PRA Notice will not collect data useful from a safety perspective and the mechanism the FAA proposes to use to collect the data is not sufficient to collect and effectively analyze the data, and unnecessarily burdensome.

A. The FAA's proposed methodology for collection is not necessary for the FAA's performance and would set a damaging precedent for aviation regulation.

Section 44731 mandates that the FAA "shall require a part 135 certificate holder providing helicopter air ambulance services to submit to the Administrator, not later than 1 year after the date of enactment of this section, and annually thereafter, a report containing, at a minimum," specified data points. The Act does not direct the FAA to require this information through the ill-fitting vehicle of air carrier Operations Specifications, which are dedicated to specific operational safety authorizations. It does not assume the FAA will skirt the Administrative Procedure Act and ignore all DOT administrative precedent by directly imposing this new data collection requirement on air carriers conducting HAA operations without conducting notice and comment rulemaking, as the FAA's proposal would do. There simply is no reason, short of the unacceptable reason of bureaucratic expedience, why the FAA is choosing to implement this section of the Act without undertaking the rulemaking process and incorporating the resulting requirements in the Code of Federal Regulations, as has been done with similar Department of Transportation air carrier data collection and reporting requirements.

Further, Section 44731 does not define its key terms; it relies on the FAA to do so. It also expects the FAA to consider other data elements not specified in the law that would enhance promotion of aviation safety. The FAA's proposal does neither, leaving various data point requirements ambiguous and failing to fully grasp the opportunity to make good use of the data collection requirement in the Act. Given the expected safety benefits to come from appropriate collection and analysis of the HAA data and the need for it to be useful to *both* the HEMS industry and the government, the FAA should implement the data collection reporting requirement through a general rulemaking process that allows for public comment from the industry and other important stakeholders to assure that congressional intent is carried out and the public benefits.

Further, the burden this proposal would place upon the industry requires the type of economic review that a formal rulemaking process would involve. The FAA's proposed methodology would create a significant burden on the industry beyond that required by the Act; to impose this requirement outside of the rulemaking process sets a damaging precedent for both the FAA and the aviation community it regulates.

B. The estimated burden far underestimates the actual burden that would result from implementation of the FAA's proposal.

The FAA proposal fails to take into account current data collection practices by air medical operators, data that could be used to help meet the Act's requirements, and thereby makes the actual burden that would result from the FAA's proposal much greater. Air medical operators now collect a multitude of data on aircraft and aircraft operations. Much of that data would be useful for aviation safety analysis; for example, simply requiring operators to report the total number of flight hours would be a significant advancement from current FAA requirements. The unnecessary burden here is not the collection of the data required by the Act; this burden would be created because the data is not currently collected in the

manner in which the FAA proposes it to be reported.

More specifically, the FAA proposal goes beyond the requirements of Section 44731 to require a report correlating the various data elements *to one another*, and does so without reason or safety justification. For example, the FAA's proposed reporting form would require a report correlating the total number of flight requests accepted or declined and the type of each such flight request to registration number, base location, time of day, total flight time, and IFR time, thereby making reporting significantly more burdensome. The air medical industry does not currently collect information in this manner because there is no safety or business reason for doing so. The FAA's proposed data correlation reporting method imposes an additional burden that the law does not require, without a rationale or demonstrated need for this additional burden.

Helicopter air medical services data now exists in different places; aircraft operational data and patient transport data is not collected at a single point. For a small to medium sized operation, collecting the data as the FAA proposes may require up to 72 hours per year at a cost of approximately $4,000. For a large and more complicated operation, the collection of the data may require a more complex solution, most likely necessitating the hiring of additional full-time employees at a cost up to $250,000 per year. This burden may not be insurmountable, but it is unnecessary and significantly more than the FAA's published estimate of 6 hours per response.

Further, the FAA proposes to use a Microsoft Excel spreadsheet as the mechanism for collecting the information. A Microsoft Excel spreadsheet has a limit of 65,536 rows by 256 columns. Even if the FAA requires air medical operators to report only those flights with a patient on board, a limitation, as discussed below, that would detract from the safety purpose of the law, those flights alone may exceed 400,000 rows per year. This far exceeds the capabilities of the spreadsheet even on a quarterly basis. We are concerned this would require the FAA to keep industry data in separate files, making it possible to determine which operator is in which file and that this method would violate the law's requirement to protect the confidentiality of propriety information. Further, it is difficult to understand how industry data spread over several different files will permit any analysis of the industry as a whole.

Again, we question the value of data collected in this manner; it appears to provide no purpose other than to meet a narrow interpretation of the FAA's obligations under the law.

C. The FAA's legislative mandate may be implemented in a different manner so as to enhance the quality, utility and clarity of the information collected.

The Act's data collection requirement should be interpreted and implemented with an eye on its purpose: to improve the safety of the air medical sector. Section 44731 also should be implemented, as is possible consistent with the law, in the context of prior relevant National Transportation Board recommendations and GAO reports to Congress, which, among other things, urged collection of total helicopter air medical flights and hours flown and allowed for aggregate reporting of this information not pegged to individual aircraft registration numbers.

Another key concern with the FAA's proposed approach is the correct definition of the term "flight". If "flight" is defined consistent with the 14 CFR §1.1 definition of "flight time" as originating with a takeoff and ending with a landing, then the flight "requested" according to the FAA's proposal would only be the leg of the flight transporting the patient. Collecting and correlating data to each "flight" in this way would result in a flight hours total that only reflects flights conducted with a patient on board and not also include the total number of hours operated by the aircraft in the other two legs of the typical helicopter air medical service operation. We cannot derive an accident rate, analyze safety trends, or determine risk factors in all phases of an air medical flight operation with such limited data. Operators collect a

multitude of aviation safety data on their aircraft; to collect and separate that data in the manner the FAA proposes ignores all of that important information and focuses on a very narrow interpretation of the legislation that we believe is unnecessary and does not meet its intent.

Again, we believe the purpose of the legislation was to inform safety efforts; we do not believe that gathering data only on those flights with a patient onboard provides the information necessary to assist in advancing safety in our sector. Less than a third of helicopter flights in the air medical industry occur with a patient onboard and historically less than a quarter of air medical accidents occur while transporting a patient.

This proposal would fail to collect the key data we believe is required to provide an effective analysis of the air medical transport industry. For example, the proposal requires that the operator report the number of aircraft and the location of each. Aircraft are frequently moved to numerous locations; they are not attached to a particular base. The operator knows where the aircraft are and can easily report that location, but it will not be of any particular value because the location will change.

As we have previously noted, we urge the FAA to collect the data in a way that fully the aggregates the information for purposes of public disclosure on an industry basis so as not to disclose proprietary information that can be used to a competitive advantage; the objective of this data collection effort is safety, not tracking the commercial activities of individual company operations.

D. The alternative proposal presented by AMOA would minimize the burden while enhancing the quality of the collected information for purposes of advancing aviation safety.

Finally, we propose an alternative to the FAA's current proposal that is consistent with the Act and allows for the collection of much more useful data in a far less burdensome manner. Our proposal, if adopted by the FAA, would clearly define the terms of the law in a manner consistent with its safety goals, previous recommendations by the NTSB and GAO analysis, and the operational realities of the air medical sector. We have previously proposed to the FAA the following alternative which allows for aggregate reporting of the statutory data points; we continue to support this alternative and believe it meets the Act's provisions, Congressional intent, and the needs of the industry.

The attached table, previously submitted to the FAA, compares the FAA's proposal to the specific requirements of the Act, it identifies our specific concerns with the FAA's proposed approach and our recommended method of data collection. We note here that the FAA's proposal still does not define key terms such as "flight request," "flight," and "dispatch".

Section 44731 Requirement	**Draft FAA Data Report Requirement**	**AMOA Proposed Changes**
(1) Number of helicopters the operator uses to provide HAA services and the base locations of the helicopters	Goes beyond the law to require reporting of each helicopter by registration number and its corresponding base location. Many helicopters are not assigned to a specific base; further, the base location of HAA helicopters is not static. The draft report also interprets the word "base" as base location at time of "flight activity" and is confusing – does this mean	The FAA instead should require separate reporting of the number of helicopters flown and the bases used each quarter. Further, a requirement to report base location should use consistent methodology and not allow for alternatives based on "best judgment."

	location of the helicopter or location of the base at each point of takeoff?	
(2) Number of flights and hours flown, by registration number, during which the helicopters were providing HAA services [**Note that this is the only data point in the law requiring correlation to individual aircraft registration numbers**]	Goes beyond the law to require reporting of this information correlated to base location and the other data elements.	The FAA should track the plain language of the law to require quarterly reporting of the number of flights and hours flown by registration number. Further and to avoid confusion, a "flight" should be defined to mean each flight segment involving a takeoff and landing.
(3) Number of flight requests accepted or declined and the type of each such flight request.	Goes beyond the law to require a report correlating this information to registration number, base location, time of day, total flight time, IFR time, thereby making reporting significantly more burdensome.	The FAA instead should require reporting of the number of flight requests accepted or declined and the type of the request on a quarterly basis without a correlation to registration number, base location and the other data elements.
(4) Number of accidents, if any, involving the operator's helicopters while providing air ambulance services and a description of the accidents	Consistent with the law.	The definition of "accident" should track the NTSB definition to assure reporting consistency.
(5) Number of flights and hours flown under IFR while providing HAA services	Goes beyond the law to require reporting of this information correlated to registration number, base location, time of day, total flight time.	The FAA instead should require the number of flights and hours flown IFR on a quarterly basis without a correlation to registration number and base location and the other data points.
(6) Time of day of each flight flown while providing HAA services	Goes beyond the law to require reporting of this information correlated to registration number and base location and the other data points. Further, the draft report interprets this data point to mean "time of day at dispatch" but "dispatch", a misnomer, would be the time a third party makes a call for HAA services, not the time of day the flight takes off -- what the law appears to call for. The FAA also should be aware that this data element alone is likely to result in over 100,000 reports on a quarterly basis just for AMOA members. How will a spreadsheet along the lines of the draft report accommodate this number?	The FAA instead should consider defining time of day to be consistent with the regulations defining "day" and "night".

(7) The number of incidents, if any, in which a helicopter was not directly dispatched and arrived but not utilized for patient transport	Goes beyond the law to require reporting of this information correlated to registration number, base location and the other data points.	There is no evidence that any such incidents ever take place, but to comply with the plain language of the law, the FAA instead should require reporting of any such incidents each quarter without requiring a correlation to registration number, base location, IFR time, time of day.

Conclusion

For all these reasons, we urge the FAA to withdraw and reconsider this proposed new information collection requirement. Again, we thank the FAA for the opportunity to provide these comments and hope to continue this important dialogue.

Sincerely,

Christopher Eastlee
President
Air Medical Operators Association