

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENT OF THE
STANDARD ON PORTABLE FIRE EXTINGUISHERS
(ANNUAL MAINTENANCE CERTIFICATION RECORD)¹
(OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NO. 1218-0238 (August 2007))**

JUSTIFICATION

1. Explain the circumstances that make 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.

The Occupational Safety and Health Act's (OSH Act) main objective is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources" (29 U.S.C. 651). To achieve this objective, the OSH Act specifically authorizes "the development and promulgation of occupational safety and health standards" (29 U.S.C. 651). In addition, the OSH Act specifies that "[e]ach employer shall make, keep and preserve, and make available to the Secretary . . . such records . . . as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . ." (29 U.S.C. 657).

Under the authority granted by the OSH Act, the Occupational Safety and Health Administration (OSHA) published a standard on Portable Fire Extinguishers at 29 CFR 1910.157 (the "Standard"). Paragraph (e)(3) of the Standard requires employers to: Inspect portable fire extinguishers annually for normal operation; record the maintenance date; retain the maintenance record for one year after the last entry or for the life of the shell, whichever is less; and make the record available to an OSHA compliance officer upon request. The annual maintenance inspection ensures that portable fire extinguishers are in safe operating condition in case of a fire, while the maintenance record provides evidence to employees and Agency compliance officers that employers performed the required inspections. Items 2 and 12 below describe the specific information collection requirement of the Standard.

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.

¹The purpose of this supporting statement is to analyze and describe the burden hours and costs associated with provisions of the Standard that contain paperwork requirements; this supporting statement does not provide information or guidance on how to comply with, or how to enforce, the Standard.

Paragraph (e)(3) of the Standard specifies that employers must subject each portable fire extinguisher to an annual maintenance inspection and record the date of the inspection. In addition, this provision requires employers to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to OSHA on request. This recordkeeping requirement assures employees and Agency compliance officers that portable fire extinguishers located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence to OSHA compliance officers during an inspection that the employer performed the required maintenance checks on the portable fire extinguishers.

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, 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.

Employers may use improved information technology when establishing and maintaining the required record. OSHA wrote the paperwork requirement of the Standard in performance-oriented language, i.e., in terms of what data to record, not how to record the data.

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.

The information collection requirement in the Standard is specific to each employer and employee involved, and no other source or agency duplicates the requirement or can make the required information available to OSHA (i.e., the required information is available only from employers).

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

The information collection requirement specified by the Standard does not have a significant impact on a substantial number of small entities.

6. Describe the consequence 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.

The Agency believes that the information collection frequency required by the provision is the minimum frequency necessary to fulfill its mandate “to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources” as specified in the Act at 29 U.S.C. 651. Accordingly, if employers do not perform the required information collection, or delay in providing this information, employees may inadvertently attempt to operate fire extinguishers that are not in proper working order, thus increasing their risk of death or serious injury.

7. 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 impedes sharing of data with other agencies for compatible confidential use; 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.

This information request is consistent with the guidelines provided in 5 CFR 1320.5.

8. 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 actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years, even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the Federal Register on July 2, 2007 (72 FR 36068, Docket No. OSHA-2007-0052) requesting public comment on its proposed extension of the information collection requirements contained in the Standard on Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)). This notice was part of a preclearance consultation program intended to provide those interested parties the opportunity to comment on OSHA's request for an extension by the Office of Management and Budget (OMB) of a previous

approval of the information collection requirements found in the above Standard. The Agency received no comments in response to its notice to comment on this request.

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

The Agency will not provide payments or gifts to the respondents.

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

The paperwork requirement specified by the Standard does not require the collection of confidential information.

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 reason 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.

The paperwork requirement specified by the Standard does not require the collection of sensitive information.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage-rate categories.**

In the previous ICR, OSHA estimated that there were 9,000,000 portable fire extinguishers that were subject to an annual maintenance check. To determine the number of portable fire extinguishers currently covered by this ICR, the Agency used data available from the 2001 County Business Patterns (NAICS), U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census and the 2003 County Business Patterns (NAICS), U.S. Department of Commerce, Economics and Statistics Administration, Bureau of the Census. These data indicated that, during this time period, the number of all establishments increased by 2.25 percent since the previous estimate, from 9 million to 9.2 million. OSHA then multiplied

the previous number of portable fire extinguishers (9 million) by 2.25 percent to obtain a new total of 9,202,500 portable fire extinguishers that would be subject to the requirement that they undergo an annual maintenance check.

OSHA believes that a large number of establishments will subject their fire extinguishers to the annual maintenance inspection as a usual and customary business practice to meet local fire codes and/or to reduce fire insurance premiums. Based on past information from a senior fire prevention engineer, it was estimated that approximately 85 percent of the 9,202,500 portable fire extinguishers (7,822,125) will undergo the annual maintenance inspection as a usual and customary business practice.² Therefore, OSHA is not including these inspections and associated records in determining the burden hours and cost of the information collection requirement specified by paragraph (e)(3) of the Standard. Based on this determination, this burden hour estimate only covers the remaining 15 percent (i.e., 1,380,375) portable fire extinguishers.

Past discussions by the Agency with a leading fire extinguisher servicing company indicate that they collect and test, under contract, about 90 percent of the 1,380,375 portable fire extinguishers (i.e., 1,242,338) covered by 29 CFR 1910.157(e)(3). Accordingly, employers perform their own inspections and recordkeeping on the remaining 10 percent (138,038) of these extinguishers.

The Agency adopted the mean wage rates from National Compensation Survey: Occupational Wages in the United States, June 2005, pp. 21, Table 2-2, U.S. Department of Labor, Bureau of Labor Statistics, <http://stats.bls.gov/home.htm>. Total compensation for this occupational category includes an adjustment of 29.5 percent (Employer Costs for Employee Compensation, December 2006, pp.4) for fringe benefits; this figure represents the average level of fringe benefits in the private sector. The costs of labor used in this analysis are; therefore, estimates of total hourly compensation. The hourly wage is:

Precision Inspector, Tester, Grader	\$28.71
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For employers who perform their own inspections, OSHA estimates that an inspector will take approximately 30 minutes (.50 hour) to perform and record the required maintenance inspection on each portable fire extinguisher (this estimate is based on information from staff familiar with the inspection testing). The inspector typically records the inspection date on a readily-visible tag attached to the extinguisher; therefore, disclosure of the recorded information to OSHA compliance officers imposes no burden on employers. The estimated burden hours and cost associated with performing and recording the required maintenance inspections are:

²5 CFR 1320(b)(2) states: “The time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities will be excluded from the “burden” if the agency demonstrates that the activities needed to comply are usual and customary.”

Burden hours: 138,038 fire extinguishers x .50 hour = 69,019
Cost: 69,019 hours x \$28.71 = \$1,981,535

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

The cost to conduct the annual inspection of a portable fire extinguisher ranges from \$10.00 to \$22.50³ depending on the results of the inspection. Therefore, for calculating cost, the Agency is using an average of \$16.00. As discussed in #12 above, about 1,242,338 extinguishers are tested through contract with a fire extinguisher maintenance service. The total cost associated with performing the required annual maintenance inspection maintenance inspections under contract on 1,242,338 portable fire extinguishers is:

Cost: 1,242,388 fire extinguishers x \$16.00 = \$19,878,208

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

OSHA estimates that a compliance officer (GS-12, step 5), with an hourly wage rate of \$36.26, will spend about one minute (.02 hour) during an inspection reviewing the documents required by the Standard. The Agency determines that its compliance officers will inspect about 128,835⁴ portable fire extinguishers regulated by the Standard during each year covered by this ICR. OSHA considers other expenses, such as equipment, overhead, and support staff salaries, to be normal operating expenses that would occur without the paperwork requirements specified by the Standard. Therefore, the total cost of these paperwork requirements to the Federal government is:

Cost: 128,835 inspections x .02 hour x \$36.26 = \$93,431

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

OSHA is requesting an adjustment increase of 1,519 burden hours (from 67,500 to 69,019 burden hours). This adjustment increase is a result of an estimated 2.25 percent increase in the number of portable fire extinguishers from 9,000,000 to 9,202,500 (see explanation under

³SOURCE: <http://sterlingfire.vicbc.com/SterlingFire/extinguishers.htm>

⁴OSHA estimated the number of inspections by multiplying OSHA's inspection rate (1.4%) by the number of portable fire extinguishers covered by this ICR (i.e., 9,202,500 portable fire extinguishers x 1.4% = 128,835 inspections).

number 12). In addition, there is an increase in the cost under Item 13 from \$19,440,000 to \$19,878,208 (an increase of \$438,208). This cost increase is the result of not only an increase in the number of portable fire extinguishers inspected by outside contractors but a rise in the average cost of conducting the inspections.

16. For collections 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 beginning and ending dates of the collection information, completion of report, publication dates, and other actions.

OSHA will not publish the information collected under the Standard.

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

There are no forms which display the expiration date.

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

OSHA is not seeking such an exception.