

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS
OF THE CONCRETE AND MASONRY CONSTRUCTION
STANDARD (29 CFR PART 1926, SUBPART Q)¹
OMB Control Number 1218-0095 (October 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 main purpose of the Occupational Safety and Health Act (OSH Act) 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” or “the Agency”) published 29 CFR 1926, Subpart Q (“Concrete and Masonry Construction”; hereafter, “Subpart”). The Subpart specifies requirements to protect employees who construct, erect, brace, maintain, remove, or perform similar tasks on concrete or masonry structures. After thoroughly reviewing the standard, OSHA identified a number of collection of information (paperwork) requirements in the Subpart, including the following:

The use of signs and barriers to limit employee access to areas where post-tensioning operations will take place (§1926.701(c)(2)), and two general requirements to use lockout/tagout measures to protect workers from injury associated with equipment and machinery (§1926.702(a)(2) and (j)(1)). Paragraph (j)(2) of 1926.702 requires that tags read “Do Not Start” or similar language to indicate that the equipment is not to be operated.

Paragraph (a)(2) of §1926.703 require employers to make available, at the jobsite, drawings or plans for: the jack layout, formwork (including shoring equipment), working decks, and scaffolds, as well as any revisions to these documents. Paragraph (a) of §1926.705 requires employers engaged in lift-slab operations to have specific designs and plans detailing the lift-slab operation. Drawings, plans and/or designs are developed and kept available at the jobsite as

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

a usual and customary business practice to be used by the various contractors during construction; therefore, OSHA is not requesting clearance under the PRA for the burden associated with preparing drawings, plans or designs and having them at the jobsite.

Section 1926.705 (b) requires that jacks used for lifting operations be marked to indicate their rated capacity. Manufacturers of jacks rated the equipment as a usual and customary practice; therefore, OSHA is not requesting clearance under the PRA for the burden associated with the marking operation.

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.

The warning signs/barriers required by paragraph §1926.701(c)(2) reduce exposure of non-essential employees to the hazards of post-tensioning operations, principally a failed rope or wire striking an employee and causing serious injury. The requirements to lock-out and tag-out ejection systems and other hazardous equipment (e.g., compressors, mixers, screens or pumps used for concrete and masonry construction) specified by paragraphs §1926.702(a)(2), (j)(1), and (j)(2) warn equipment operators not to activate their equipment if another employee enters the equipment to perform a task (e.g., cleaning, inspecting, maintenance, repairing), thereby preventing serious injury or death.

Construction contractors and employees use the drawings, plans, and designs required by paragraphs §1926.703(a)(2), to provide specific instructions on how to construct, erect, brace, maintain, and remove shores and formwork if they pour concrete at the jobsite.

Paragraph §1926.705(b) requires employers to mark the rated capacity of jacks and lifting units. This requirement prevents overloading and subsequent collapse of jacks and lifting units, as well as their loads, thereby sparing exposed employees from serious injury and death.

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 any available technology to establish and maintain the documents specified by the Subpart. The Agency wrote the paperwork requirements in performance-oriented language, i.e., in terms of what data to collect, 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 requirements of the Subpart are specific to each employer involved and no other source or agency duplicates these requirements 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 requirements specified by the Subpart do 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.

Employers need to comply with each paperwork requirement specified by the Subpart only once for each task at a jobsite (e.g., placing warning signs for a post-tensioning operation, tagging a piece of hazardous equipment for entry and repair, developing drawings or plans). Any reduction in frequency would eliminate the requirements entirely, thereby jeopardizing the safety of employees who rely on signs and tags to warn them of hazards or who use drawing, plans, or designs to ensure the structural stability and integrity of the concrete structure.

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.**

No special circumstances exist that require employers to collect information in the manner or using the procedures specified by this item.

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 24, 2007 (72 FR 40337, Docket No. OSHA-2007-0059) requesting public comment on its proposed extension of the information collection requirements contained in the construction standard on Concrete and Masonry (29 CFR part 1926, subpart Q). 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 requirements specified by the Subpart do not involve 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 requirements specified by the Subpart do not involve 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.

The posting of signs, and the use of barriers (tapes with warning messages or messages to prevent entry to specific areas of the jobsite) and locks and tags is a common practice on construction jobs. Information taken from FW Dodge reports and analyzed by the University of Tennessee indicate that for calendar year 2006, estimates the number of active construction worksites (including new construction, additions and alterations - all over \$2,000 - but excluding single-family houses) is 243,000. The estimate of single-family worksites active at some time during 2006 is 2.1 million. OSHA estimates at least 20 percent will involve one instance of posting warnings or the use of locks and tags at jobs covered by this collection.

The Agency determined average wage rates using average hourly earnings. For the relevant occupational categories, OSHA adjusted the mean hourly earnings from the June 2005 *National Compensation Survey by the Bureau of Labor Statistics* to allow for fringe benefits, which comprise about 29.4% of total compensation in the private sector. With wages comprising 70.6% of employee compensation, the Agency multiplied wages by 1.4 (1/0.706) to derive total - hourly employee compensation. Therefore, the costs of labor used in this analysis are estimates of total hourly compensation. These estimates are \$28.23 for a Construction Employee. It typically takes 5 minutes (.08 hour) to post or place the warning signs, locks, tags, etc..

Burden Hours: 2.343 million x 20% x .08 hour = 37,488 hours

Cost: 37,488 hours x \$28.23 = \$1,058,286

As described in Item 1, OSHA determined that requirements contain §1926.702 (j)(2)², §1926.703(a)(2) and §1926.705(b) of the paperwork requirements specified by the Subpart impose no burden hours or costs as specified by the Paperwork Reduction Act of 1995.

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 estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

· **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondent (fewer than 10), utilize the 60-day pre-OMB submission public comment process and**

² Information provided by the Federal government to a recipient for the purpose of disclosure to the public is not a collection of information (5 CFR 1320.3(c)(2)). OSHA believes employers will use the “Do not start” language.

use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

· Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

The cost determinations made under Item 12 account for the total annual cost burden to respondents or recordkeepers resulting from these collection of information requirements.

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.

The Agency estimates that a compliance officer (GS-12, step 5), at an hourly wage rate of, \$36.26 spends about 15 minutes (.25 hour) during an inspection reviewing signs/barriers and lockout/tagout devices. OSHA determines that its compliance officers will conduct 6,560 inspections during each year covered by this ICR.³ In making this cost determination, the Agency does not account for other occupational costs (e.g., equipment, overhead, and support staff expenses) because it considers these costs to be normal expenses that would occur without the collection-of-information requirements specified by the Standard. Therefore, the total cost of these paperwork requirements to the Federal government is:

$$\text{Cost: } 6,560 \text{ inspections} \times .25 \text{ hour} \times \$36.26 = \$59,466$$

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

The Agency is requesting a 15,088 hour increase from 22,400 hours to 37,488 hours. The increase is a result of increasing the number of construction worksites from 1.4 million to 2.43 million, and increasing the time to post or place warning signs from 5 minutes to 15 minutes.

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 Subpart.

³OSHA determined the number of inspections by calculating an overall inspection rate of 1.4% (0.014) for all employers under its jurisdiction, then applying this percentage to the number of jobsites covered by the Standard (468,600 x .014 = 6,560).

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 on which to 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 requesting an exception to the certification statement in Item 19.