

**SUPPORTING STATEMENT
FOR THE INFORMATION COLLECTION REQUIREMENTS
FOR THE PROPOSED STANDARD ON CONFINED SPACES IN CONSTRUCTION
(29 CFR PART 1926, SUBPART AA)¹
OFFICE OF MANAGEMENT AND BUDGET (OMB) CONTROL NUMBER 1218-0NEW
(June 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 objective of the Occupational Safety and Health Act of 1970 (i.e., “the 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 Act authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651).

Section 6(b)(7) of the Act specifies that “[a]ny standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure.” This provision goes on to state that “[t]he Secretary, in consultation with the Secretary of Health and Human Services, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning . . . as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard” (29 U.S.C. 655).

With regard to recordkeeping, the 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). The Act states further that “[t]he Secretary . . . shall prescribe such rules and regulations as [he/she] may deem necessary to carry out [his/her] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” (29 U.S.C. 657).

Under the authority granted by the Act, the Occupational Safety and Health Administration (i.e., “OSHA” or “the Agency”) is proposing to publish at 29 CFR part 1926, subpart AA, a safety standard for the construction industry that regulates confined spaces (i.e., “the proposed

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

Standard"). Items 2 and 12 below describe in detail the specific information collection requirements 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.

The proposed Standard specifies a number of collection of information requirements. Employers and employees would use these collections of information whenever they identify a confined space at a construction worksite. The following sections describe who would use the information collected under each requirement, as well as how they would use it. The purpose of the information would permit employers and employees to systematically evaluate the dangers in confined spaces before entry is attempted, and to ensure that adequate measures have been implemented to make the spaces safe for entry. In addition, the paperwork provisions of the proposed Standard specify requirements for developing and maintaining a number of records and other documents. Further, OSHA compliance safety and health officers would need the information to determine, during an inspection, whether employers are complying with the requirements. The following discussion identifies the sections of the proposed Standard that have collection of information requirements, and describes the content and purpose of these requirements in detail.

29 CFR 1926.1204 – Initial Worksite Evaluation, Information Exchange, and Coordination

Paragraph (a) of this proposed section requires that controlling contractors or host employers provide their contractors, for the contractors' evaluation, with information about each confined space at the worksite known to the controlling contractor and host employer; they would have to provide this information prior to the contractor entering the confined space. For each of these spaces, the controlling contractor or host employer would have to provide to the contractor with information about the location of the confined space, the identity of any known hazards that affect the space, the classification of the space if previously classified, and any precautions and procedures that the controlling contractor or host employer previously implemented for entering the space. However, this provision expressly states that the controlling employer and host employer would not have to provide this information if it is not already known to them; i.e., they do not have to collect or search for the information. The purpose of this provision is to provide available information to the contractor that would help the contractor accurately assess the hazards that may be present in the confined space.²

Under paragraph (c) of the proposal, when the contractor classifies a confined space, the contractor must inform the controlling contractor and host employer of the precautions and procedures the contractor will follow for entry into the space, and, at the conclusion of entry operations, inform the controlling employer and host employer about any hazards that were present or developed during entry operations. The Agency believes that this proposed paragraph would provide the controlling employer or

²OSHA considers this proposed requirement to be usual and customary communications among controlling contractors, host employers, and contractors; therefore, it does not impose burden hours or costs on the employers. In this regard, information about hazards, classifications, and safety procedures pertaining to confined spaces would be conveyed to contractors during initial discussions of the work to be performed in the confined space as a matter of usual and customary business practice.

host employer with information they could transmit to other employers whom they may contract later to perform work in the space, thereby assisting these employers in protecting their employees in conducting safe entry operations.

29 CFR 1926.1205 – Atmospheric Testing and Monitoring

This proposed section specifies the requirements for testing or monitoring atmospheric hazards in a confined space. Proposed paragraph (b)(1) states that employers must provide or communicate any information that the employer is required to retain regarding an atmosphere that is immediately dangerous to life or health (IDLH) (e.g., the name of, and level of exposure to, the atmospheric contaminants; Material Safety Data Sheets) to a medical facility that treats an employee exposed in a confined space to an atmosphere that is IDLH. Such information would significantly assist the medical facility into correctly diagnosing and treating the employee, thereby minimizing harm to the employee caused by exposure to atmospheric hazards present in a confined space.³

29 CFR 1926.1209 – PRCS—Initial Tasks

This proposed section requires employers to comply with a number of paperwork requirements. Proposed paragraph (a)(1) requires contractors to notify their employees that it anticipates will be in or near a permit-required confined space (PRCS) and their authorized representative, and the controlling contractor about the location of, and the hazards/dangers posed by, the PRCSs located at the job site. This proposed requirement would inform the parties most affected by PRCS operations of the locations and hazards of the PRCSs, thereby enabling them to take appropriate protective measures.⁴

Proposed paragraph (a)(2) specifies that the contractor must post danger signs to warn employees about the PRCSs. The contractor would post the signs at or near the entrances to the PRCSs, and the signs must use the following or similar language: "Danger—Permit Required Confined Space—Authorized Employees Only" or "Danger—Do Not Enter Without a Permit." In addition, when contractors can demonstrate that posting a sign is infeasible, they must use an equally effective means of warning employees. This provision would augment the previous provision by providing employees in the vicinity of a PRCS with a continuous warning regarding the presence and dangers of the PRCS. The signs would deter employees not authorized to enter a PRCS from doing so, thereby preventing serious harm to these employees.⁵

³The Agency is taking the burden for collecting information on IDLH exposures and arranging for its transmission to a treating medical facility in the determinations described for paragraph (b)(1) of this proposed section under section (B) of Item 12 below. However, OSHA is determining the burden for retaining this atmospheric information under section (S) of Item 12 below, which describes the recordkeeping requirements of proposed 29 CFR 1926.1219(e).

⁴OSHA considers this proposed requirement to be usual and customary communications among contractors, their employees, and controlling contractors; therefore, it does not impose burden hours or costs on the employers. In this regard, information about locations and hazards of PRCSs at the job site would be conveyed to employees and controlling contractors during discussions of work to be performed as a matter of usual and customary business practice.

⁵OSHA is taking only limited burden for this proposed requirement because the Agency is providing the exact language that a contractor would use for the warning signs; accordingly, this provision is exempt under the implementing rules and guidelines of PRA-95, except in those cases in which employers provide similar language

Paragraphs (b) and (c) are subsets of paragraph (a) of this proposed section. These proposed paragraphs specify notification requirements (e.g., erecting barriers, posting danger signs, and directly informing employees and the controlling contractor) when the contractor prohibits any entry into a PRCS (proposed paragraph (b)), or when the contractor limits entry to one or more employees (proposed paragraph (c)). Proposed paragraph (b) would provide employees with information necessary for them to avoid entering PRCSs and exposing themselves to the hazards therein, while proposed paragraph (c) would accomplish the same purpose for employees not authorized to enter the PRCS.⁶

Proposed paragraphs (d)(1) and (d)(2) require that employers ensure that the employees who will be in or near a PRCS have the knowledge and skills necessary to safely perform of their duties, including:

- An understanding of the hazards in the PRCS;
- The methods used to isolate, control, or otherwise protect the employees from these hazards; and,
- For those employees who will be in or near the PRCS but not authorized to perform entry rescues, an understanding of the dangers of attempting such rescues.

The three proposed provisions in paragraph (d)(3) specify the frequency of training required by proposed paragraphs (d)(1) and (d)(2). First, employers must ensure that employees acquire the requisite knowledge and skills prior to initially entering a PRCS. Second, if employees in or near a PRCS subsequently receive new PRCS-related duties to perform, the employer must provide those employees with the requisite training prior to the employees reentering the PRCS to perform these duties. The last provision of proposed paragraph (d)(3) specifies that if the employer finds a new hazard in the PRCS for which an employee in or near the PRCS has received no previous training, the employer must ensure that the authorized entrant exits the PRCS and receives the necessary training regarding the new hazard before resuming work in the PRCS.

The Agency believes that the proposed requirements specified by proposed paragraph (d)(1) would ensure that employees in or near a PRCS would be able to perform their work effectively and safely having acquired a thorough knowledge of the hazards in a PRCS and of the methods used to isolate and control these hazards. Accordingly, these employees would recognize when these methods have failed, and would be able to respond appropriately to such failures. Proposed paragraph (d)(2) would prevent unqualified employees located outside the PRCS from trying to rescue an injured employee inside the PRCS, thereby endangering themselves and perhaps the injured employee. The three proposed provisions of paragraph (d)(3) would ensure that employees have the requisite knowledge and skills to respond promptly and appropriately to hazards before they begin PRCS operations, as well as during PRCS operations if they must perform new duties or encounter new hazards.⁷

for their signs. (See section (C) of Item 12 below for additional information.)

⁶Proposed paragraphs (b)(2) and (c)(2) require that danger signs prohibiting or limiting entry must comply with the specifications of proposed paragraph (a)(2). Therefore, OSHA is taking the burden for these requirements under the determinations made for proposed paragraph (a)(2) (see the previous discussion for proposed paragraph (a)(2), as well as footnote 5 above).

⁷The Agency concludes that these proposed requirements are written in performance-oriented language and, thus, are not considered collections of information under the implementing rules and guidelines of PRA-95.

Under proposed paragraph (d)(4), employers must ensure that employees can demonstrate proficiency in the duties required by this proposed section. Accordingly, employers would have to determine the effectiveness of the training required by this proposed section. In doing so, employers must ensure that employees have an understanding of, and can apply proficiently and appropriately, the knowledge and skills required to work safely while exposed to the initial and subsequent hazards present in the PRCS.

Proposed paragraph (d)(5) specifies that employers are to maintain records showing that employees accomplished the requisite training. These records must contain the employee's name, names of the trainers, and dates of the training. The Agency believes that maintaining such records is necessary to ensure that employees who require training in PRCS hazards receive that training. OSHA recognizes that the turnover rate for employees on construction sites is higher than in many other industries. However, it believes that without this documentation it is unlikely that employers would be able to keep track of employee training (especially in light of high turnover rates), thereby allowing exposure of unqualified employees to PRCS hazards.

When an employee deviates from the PRCS entry procedures specified by the proposed Standard, or demonstrates inadequate knowledge and skills of these procedures, proposed paragraph (d)(6) specifies that the employer must retrain the employee in the required knowledge and skills before the employee continues PRCS entry operations. By retraining employees who deviate from entry procedures, or who demonstrate inadequate knowledge of these procedures, the employer would improve the safety of all employees in a PRCS. OSHA believes that an employee can affect the safety of others in a PRCS adversely when that employee deviates from, or has inadequate knowledge of, correct entry procedures.⁸

Under proposed paragraph (f), employers must develop procedures for safely terminating PRCS entry operations for both planned and emergency conditions. This proposed provision would ensure that, under planned conditions, the isolation and control methods used to prevent employee exposure to PRCS hazards remain in effect until authorized employees have exited the PRCS safely. Under emergency conditions, this proposed paragraph would permit authorized employees to escape without harm from the PRCS, or, if they are injured, to be removed from the PRCS without further injury.

29 CFR 1926.1210 – PRCS—Preparing for Entry

Paragraph (a) of this proposed section specifies that, before employees enter a PRCS, the employer would have to prepare and post an entry permit at the point where employees enter the PRCS. Paragraph (a) of proposed 29 CFR 1926.1214 specifies the information that the employer must include on the entry permit. This provision ensures that employees are aware of conditions necessary for safe PRCS entry operations, including: the identification of the PRCS; the purpose for entering the PRCS; the date and duration of the entry operation; the identification of physical and

⁸See footnote 7 above. Also, note that this proposed provision does not require the maintenance or retention of records.

atmospheric hazards in the PRCS; the means used to protect employees from, or to test and monitor, the hazards; atmospheric-testing and –monitoring results; safe hazard levels; the other employees involved in the entry operation; communication methods; the identity of, and methods used to summon, the rescue service; equipment needed for the entry operations; additional permits issued for work performed in the PRCS; and other appropriate information, including problems encountered.⁹

Both the complexity of safe PRCS entry operations and criticality of each step in the operation make it necessary for employers to have written documentation regarding completion of each of these steps before they are able to implement PRCS entry operations safely. Therefore, this information would assist employers in determining that all required safety steps have been taken before they allow entry into a PRCS. In addition, this information would allow employees involved in entry operations, as well as their employers, to detect conditions that deviate from the planned conditions specified in the entry permit, and to take whatever action is necessary to assure protection, including summoning the rescue service.

Paragraph (e)(2)(v) of this proposed section requires that employers ensure that the entry supervisor signs the entry permit after verifying the details described in the permit. OSHA believes that having this information on the entry permit readily and conveniently identifies the employees who have the authority and responsibility to maintain safe conditions during PRCS operations to those employees most in need of this information (i.e., authorized employees, attendants, other employees near the PRCS). Accordingly, this information would enable an employee who discovers an unsafe condition in or near the PRCS, or who experiences or observes symptoms of an unsafe condition, to notify the entry supervisor of these events so that the supervisor can correct the hazard or evacuate the PRCS. In addition, this requirement underscores to the employer and the entry supervisor the need to ensure that the safe-entry conditions listed in the permit have been met.

29 CFR 1926.1211 – PRCS—During Entry

Proposed paragraph (c) requires that employers document on the entry permit the determinations made to assess whether the physical and atmospheric hazards in the PRCS remain isolated or controlled, or that the employees remain protected from them. In addition, employers would have to document on the entry permit atmospheric monitoring results obtained during entry operations. This information would provide entry supervisors, authorized entrants, and attendants with evidence of the completed assessment, while the assessment results would allow them to confirm that safe conditions exist in the PRCS. If the assessment results indicate that conditions in or near the PRCS are deviating from the pre-entry conditions listed on the entry permit, they can take appropriate action to avoid exposure to the PRCS hazards.

Under proposed paragraph (e)(3), the employer must ensure that the replacement entry supervisor signs the entry permit. The purpose of this proposed requirement is to distinguish the current entry

⁹Note that paragraph (k) of this proposed section reiterates the requirement to enter this information on the entry permit.

supervisor responsible for the PRCS from the entry supervisor who previously had this responsibility. Accordingly, an employee who discovers an unsafe condition in or near the PRCS, or who experiences or observes symptoms of an unsafe condition, would be able to notify the correct entry supervisor of these events, thereby avoiding delays in controlling the hazard or evacuating the PRCS. In addition, this requirement underscores to the replacement entry supervisor the need to ensure that the safe-entry conditions listed in the permit have been met.

Paragraph (f) of this proposed section has several provisions that contain paperwork requirements. Proposed paragraphs (f)(5), (f)(6), and (f)(7), respectively, require that employers ensure that attendants: communicate with authorized entrants as necessary to monitor entrant status and to alert entrants of the need to evacuate the PRCS; monitor activities inside and outside the PRCS to determine if the PRCS remains safe for authorized entrants and informs the rescue service whenever a non-entry or entry rescue is needed; and inform the employer when a non-entry or entry rescue begins or an authorized entrant may need medical aid or assistance in escaping from the PRCS. In addition, proposed paragraph (f)(11) requires that employers ensure that attendants warn any individual who is not an authorized entrant and approaches a PRCS during entry operations to stay away from the PRCS; if the individual enters the PRCS, the attendant must tell the individual to exit immediately, and inform the entry supervisor and authorized entrants of the unauthorized entry.

OSHA believes that attendants' communication with authorized entrants provides attendants with information about conditions inside the PRCS that they must have to determine if the entry should continue. By monitoring activities both inside and outside of the PRCS, the attendants, who must remain outside the PRCS, can alert authorized entrants inside the PRCS to any dangerous activities that may develop either outside or inside the PRCS; such monitoring would enable employees involved in entry operations to take timely and appropriate action to protect the authorized entrants from these dangerous activities. Having the attendant inform the employer when a non-entry or entry rescue begins, or when an authorized entrant may need medical aid or assistance in escaping from the PRCS, would alert the employer to a serious incident so that the employer can facilitate the emergency response and provide whatever assistance is necessary to protect the safety and health of authorized entrants. Finally, having the attendant warn someone who is not an authorized entrant to stay away from the PRCS would protect that individual from the hazards of the PRCS. Requiring the attendant to inform the entry supervisor and the authorized entrants of the unauthorized entry is necessary because the entry supervisor would have the requisite authority to order the removal of the unauthorized individual, which may require the assistance of the authorized entrants.

Several provisions of proposed paragraph (g) of this section have paperwork requirements. Proposed paragraphs (g)(2) and (g)(3) specify, respectively, that employers ensure that authorized entrants communicate with the attendant as necessary to help the attendant effectively monitor the authorized entrant's status, and to inform the attendant of any signs, symptoms, unusual behavior, or other effects of PRCS hazards in themselves or other authorized entrants. These proposed provisions would provide the attendant with information that the attendant can use to determine whether to evacuate authorized entrants from the PRCS. Also, knowledge of the signs, symptoms, unusual behavior, or other effects of PRCS hazards would enable

authorized entrants to report the debilitating effects of the PRCS hazards to the attendant, thereby expediting a timely escape from the PRCS.

Paragraph (g)(4)(i) of this proposed section requires employers to ensure that authorized entrants evacuate a PRCS quickly when ordered to do so by an attendant or entry supervisor. OSHA believes that this provision would ensure that authorized entrants respond rapidly to an evacuation order, regardless of who issues the order.

Proposed paragraph (h)(2) of this section specifies that employers must summon an entry-rescue service under the following conditions: After initiating a non-entry rescue; when an entry supervisor or attendant orders an evacuation; when an authorized entrant detects or learns of an unplanned condition, any sign, symptom, unusual behavior or other effect of a hazard, or an evacuation alarm; or when a reasonable probability exists that an authorized entrant may need medical aid or assistance in exiting or escaping from the PRCS. OSHA believes that summoning an entry-rescue service after initiating a non-entry rescue is necessary because time is of the essence under these circumstances, and waiting to confirm injuries may jeopardize the health and safety of the authorized entrants. Also, limiting the incapacitated entrants' exposure to the PRCS hazard could be critical to their health and safety, and a rapid response by the entry-rescue service would reduce such exposures, especially if the non-entry rescue fails.

29 CFR 1926.1213 – PRCS—Rescue Criteria

The requirement under proposed paragraph (a)(1) specifies that employers must ensure that attendants and employees designated to perform non-entry rescue acquire the knowledge and skills necessary to perform these rescues safely. This proposed provision would prevent these employees from sustaining injuries and other harm while performing a non-entry rescue, thereby increasing the probability that they will retrieve an authorized employee from the PRCS promptly and safely, efficiently, and effectively.¹⁰

Under proposed paragraph (b)(2), the employer must inform the rescue service, prior to the service entering a PRCS to perform a rescue, of the physical and atmospheric hazards they are likely to encounter in the PRCS, as well as other relevant information known by the employer. This information would permit members of the rescue service to protect themselves from the specific hazards in the PRCS, especially the hazards (or other conditions) that may be responsible for the casualty they were summoned to rescue; when so protected, members of the rescue service can undertake safe and effective rescue operations.

Proposed paragraphs (c)(2), (c)(3), and (c)(4) specify that employers must train members of the entry-rescue service: to use properly the required personal protective equipment (PPE); to perform the assigned rescue duties; and, in basic first aid and cardiopulmonary resuscitation (CPR). In addition, proposed paragraph (c)(5) requires that employers ensure that at least one member of an entry-rescue service that participates in onsite rescue operations holds current certification in first aid and CPR. Knowing how to use PPE properly would provide assurance that the equipment is worn and used in such a manner

¹⁰The Agency considers the requirement specified by proposed paragraph (a)(1) to be written in performance-oriented language and, thus, not covered as a collection of information under the implementing rules and guidelines of PRA-95. Note also that no record-retention requirement is specified for this proposed provision.

that the members of the rescue service receive maximum protection from the hazards in the PRCS. Having adequate knowledge of how to perform the assigned rescue duties and the duties of authorized entrants would allow the members of the entry-rescue service to perform the rescue operations effectively, efficiency, and safely, thereby reducing further injury to the casualties and decreasing their exposure, as well as the casualties' exposure, to the PRCS hazards. Being proficient in first aid and CPR, as well as requiring that at least one member of the rescue team be certified in first aid and CPR, would ensure that the team members are able to effectively stabilize the casualties medically until more advanced medical treatment is available.¹¹

29 CFR 1926.1214 – PRCS—Entry Permits

As specified by proposed paragraph (b), employers must review, at least annually, PRCS entries made during the previous 12 months. In doing so, employers must use information provided by cancelled entry permits and any other available information. This proposed requirement would identify both effective and deficient practices used during PRCS entries conducted during the previous year, thereby ensuring that employers use the only practices during subsequent PRCS entries that protect employees effectively against PRCS hazards.

29 CFR 1926.1216 – Controlled-Atmosphere Confined Spaces—Requirements for Classification and Accident Prevention and Protection

For each Controlled-Atmosphere Confined Space (CACS), proposed paragraph (a)(3) specifies that employers must make an initial assessment of the CACS and document that all physical hazards have been isolated and that ventilation alone is sufficient to control the atmospheric hazards. This document must provide the following information: location of the CACS; identity of the physical hazards; methods used to isolate the physical hazards; date and time the physical hazards were isolated, and the name and signature/initials of the individual who completed the isolation work; the identity and safe levels of the atmospheric hazards; methods used to control the atmospheric hazards; date and time of atmospheric testing, and the name and signature/initials of the individual who completed the atmospheric testing; the determination that, in the event the ventilation system stops working, the monitoring procedures will detect an increase in atmospheric hazard levels in sufficient time for the entrants to safely exit the CACS; name and signature/initials of the individual who completed this document; and the date and time for completing this document. This proposed provision also requires that employers make this documentation available by posting or other methods to each employee who enters the CACS and to that employee's authorized representative.

This proposed provision would document that all physical hazard have been isolated and that ventilation alone is sufficient to control the atmospheric hazards by specifying the location of the CACS, the identity of the physical and atmospheric hazards present in the CACS, and the methods used to protect employees

¹¹OSHA considers the requirement specified by proposed paragraphs (c)(2), (c)(3), and (c)(4) of this section to be written in performance-oriented language and, thus, not covered as a collection of information under the implementing rules and guidelines of PRA-95. In addition, the Agency concludes that holding certification in first aid and CPR as specified by paragraph (c)(5) is a requirement for the job and, therefore, not covered by PRA-95. Note that proposed paragraphs (c)(3), (c)(4), and (c)(5)) do not require that employers to maintain training or certification records.

entering the CACS from these hazards. Information about the location of the CACS would inform employees and employers that the CACS is the correct one for conducting the planned entry operations. The dates and times on the document would provide these employees and employers with assurance that conditions in the confined space remain constant and safe. The proposed requirement for names and signature/initials would enable the employees entering the CACS and employers to discuss any questions they may have regarding the actions taken or the information provided with the individuals responsible for the action/documentation. In addition, the required information would: ensure that conditions in the CACS are safe for entry operations; be available for assessment purposes (e.g., to evaluate the effectiveness of the ventilation system; to determine the cause of an accident); and enable employees involved in entry operations, as well as their employers, to detect conditions that deviate from the planned conditions specified in the document, and to take whatever action is necessary to assure protection, including summoning the rescue service.

Under paragraph (b)(1)(i) of this proposed section, employers must notify employees who will be in or near a CACS, and their authorized representatives, about the location of, and the dangers posed by, the CACSs at the job site. This information would ensure that employees who perform work in a CACS exit the CACS if they detect one of the identified hazards, and also would prevent employees not authorized to enter a CACS from doing so.¹²

Proposed paragraph (b)(1)(ii) specifies that the employer must post danger signs to warn employees about the CACSs. The contractor would post the signs near the outside entrances to the CACSs, and the signs must use the following or similar language: "Danger—Controlled Atmosphere Confined Space—Authorized Employees Only." This provision states further that, when employers can demonstrate that posting a sign is infeasible, they must use an equally effective means of warning employees. This provision would augment the notification specified by proposed paragraph (b)(1)(i) by providing employees in the vicinity of a CACS with a continuous warning regarding the presence and dangers of the CACS. The signs would be especially useful in deterring employees not authorized to enter a PRCS from doing so, thereby preventing serious harm to these employees.¹³

The first two provisions of proposed paragraph (b)(2) require that employers ensure that employees have the knowledge and skills necessary to operate safely in a CACS, including: understanding the hazards in the CACS and the methods used to isolate or control these hazards; recognition of the signs, symptoms, and characteristic effects associated with these hazards; and, for those employees who will be in or near the CACS but not authorized to perform entry rescues, an understanding of the dangers involved in such rescues. The Agency believes that these proposed requirements would ensure that employees have

¹²OSHA considers this proposed requirement to be usual and customary communications among contractors and their employees; therefore, it does not impose burden hours or costs on the employers. In this regard, information about locations and hazards of CACSs at the job site would be conveyed to employees or their authorized representatives during discussions of work to be performed as a matter of usual and customary business practice.

¹³OSHA is taking only limited burden for this proposed requirement because the Agency is providing the exact language that a contractor would use for the warning signs; accordingly, this provision is exempt under the implementing rules and guidelines of PRA-95, except in those cases in which employers provide similar language for their signs. (See section (O) of Item 12 below for additional information.)

the knowledge and skill necessary to respond appropriately to CACS hazards, as well as knowledge of the methods used to protect them from these hazards. The proposed provisions would permit employees to determine how the hazards associated with construction activities affect conditions in the CACS. This information would enable the employees to maintain safe entry conditions in the CACS while performing their assigned tasks, and to evacuate the CACS if conditions become hazardous, the hazard-protection methods fail, or they develop signs, symptoms, or characteristic effects associated with the CACS hazards. In addition, the proposed paragraph would train employees located in or near a CACS but not authorized to perform entry rescues about the dangers of trying to rescue an injured employee inside the CACS; this knowledge would prevent them from endangering themselves and perhaps the injured employee.¹⁴

Proposed paragraph (b)(2)(iii) specifies that employers must ensure that employees who enter CACSs have the appropriate knowledge and skills prior to initially entering a CACS. If an employee the employer anticipates will be in or near the CACS receives a new CACS-related task to perform, the employer must provide that employee with whatever additional training on this task is necessary to maintain the CACS classification prior to the employee reentering the CACS to perform the task. Should the employer find a new hazard in the CACS for which an employee has received no previous training, the employer must ensure that the employee exits the CACS and receives the necessary training regarding the new hazard before resuming work in the CACS. Proposed paragraph (b)(2)(iv) consists of a general requirement for employers to ensure that employees can demonstrate proficiency in the duties required by this proposed section.

OSHA believes that employees must have the requisite knowledge and skills regarding safe CACS operations prior to starting work in a CACS or they would be unable to respond appropriately to the CACS hazards, thereby endangering themselves and other employees in or near the CACS. Training employees on newly assigned tasks before they continue CACS operations would ensure that they have the knowledge and skills necessary to perform the new tasks without making errors that could affect safe CACS operations. Training employees regarding new hazards before they resume work in the CACS would permit them recognize the effects of these hazards and understand applicable protection measures (e.g., evacuating the CACS if necessary). Ensuring that employees can demonstrate proficiency in the duties required by this proposed section would require employers to determine the effectiveness of the training specified by this proposed section. In doing so, employers would ensure that employees have an understanding of, and can apply proficiently and appropriately, the knowledge and skills required to work safely while exposed to the initial and subsequent hazards present in the CACS.

Proposed paragraph (b)(2)(v) specifies that employers are to maintain records demonstrating that employees accomplished the requisite training prior to entering the CACS. These records must contain the employee's name, names of the trainers, and dates of the training. The Agency believes that maintaining such records is necessary to ensure that employees who require training in CACS hazards receive that training. OSHA recognizes that construction work is transient and that the turnover rate for employees on construction sites is higher than in many other industries.

¹⁴The Agency concludes that these proposed requirements are written in performance-oriented language and, thus, are not considered collections of information under the implementing rules and guidelines of PRA-95.

Therefore, the documentation required by this proposed provision would ensure that employers are able to determine whether an employee has the training necessary to work effectively and safely in a specific CACS without endangering themselves and other employees. Having the names of trainers on the document serves to corroborate the record, and trainers can provide information to the employer on the level of competence demonstrated by the employee. Including the date in the record allows the employer to determine whether an employee needs updated or refresher training before entering the CACS. Finally, these records would provide information to the employer about whether the training meets the needs of the employees and results in safe and effective CACS entry operations.

Proposed paragraphs (d)(4) and (e)(3) require employers to document, both immediately before and during CACS entry, that all physical hazards in the CACS remain isolated and that all atmospheric hazards remain controlled. These documents must provide the following information: location of the CACS; identity of the physical hazards; methods used to isolate the physical hazards; date and time for determining that all physical hazards remain isolated, and the name and signature/initials of the individual who made the determination; identity and safe level of atmospheric hazards; methods for controlling the atmospheric hazards; atmospheric-testing/-monitoring results; date and time of atmospheric testing/-monitoring, and the name and signature/initials of the individual who completed the atmospheric testing/-monitoring; name and signature/initials of the individual who completed the document; and the date and time the document was completed. In addition, both of these proposed provisions also require that employers make this documentation available by posting or other methods to each employee who enters the CACS and to that employee's authorized representative.

These proposed provisions would assure both employees and employers that, immediately before and during CACS entry, all physical hazards in the CACS remain isolated and that the atmospheric hazards in the CACS remain controlled by providing them with information confirming that: the CACS is the correct one for conducting the planned entry operations; conditions and hazard-protective methods used in the CACS just prior to and during entry do not vary from the conditions and hazard-protective methods described in the document required under paragraph (a)(3) of this proposed section; and the hazard-protective methods used are appropriate to the hazards and conditions in the CACS. The dates and times on the documents would inform these employees and employers regarding the timeliness of the documentation. The proposed requirement for names and signature/initials would enable these employees and employers to discuss any questions they may have regarding the actions taken or the information provided with the individuals responsible for the action/documentation. In addition, the required information would: ensure that conditions in the CACS are safe for entry operations; be available for assessment purposes (e.g., to evaluate the effectiveness of the ventilation system; to determine the cause of an accident); and enable employees involved in entry operations, as well as their employers, to detect conditions that deviate from the planned conditions specified in the document, and to take whatever action is necessary to assure protection, including summoning the rescue service.

29 CFR 1926.1217 – Isolated-Hazard Confined Spaces—Requirements for Classification and Accident Prevention and Protection

Paragraph (a)(4) requires employers to document the initial determination that all physical and atmospheric hazards have been isolated in an Isolated-Hazard Confined Space (IHCS), while paragraph (d)(3) specifies that employers, before employees enter an IHCS, must document the determination that all physical and atmospheric hazards remain isolated. These documents must provide the following information: location of the IHCS; identity of the physical hazards; methods used to isolate the physical hazards; date and time for determining that the physical hazards have been/remain isolated, and the name and signature/initials of the individual who completed the isolation work/made the determination that the physical hazards remain isolated; identity of the atmospheric hazards; methods used to isolate the atmospheric hazards; date and time for determining that the atmospheric hazards have been/remain isolated, and the name and signature/initials of the individual who completed the isolation work/made the determination that the atmospheric hazards remain isolated; name and signature/initials of the individual who completed the document; and date and time for completing the document. In addition, both proposed provisions require employers to make the documentation available by posting or other methods to each employee who enters the IHCS and that employee's authorized representative.

These proposed provisions would inform both employees who enter a specific IHCS and their employers about the conditions and hazards in the IHCS and the methods used to isolate these hazards after the initial IHCS assessment and again just before employees enter the IHSC. The information regarding the initial IHCS assessment would provide the employees and employers with knowledge of the IHCS hazards, and whether the methods used to isolate these hazards are appropriate. Documentation of the IHCS hazards and hazard-isolation methods just prior to IHCS entry would allow employees and employers to confirm the effectiveness of hazard-isolation methods (i.e., to readily identify deficiencies in these methods). Information about the location of the IHCS would provide assurance to employees and employers that the IHCS is the correct one for conducting the planned entry operations. The dates and times on the documents would inform these employees and employers about the timeliness of the required actions and documentation. The proposed requirement for names and signature/initials would enable the employees and employers to discuss any questions they may have regarding the actions taken or information provided with the individuals responsible for the actions/documentation. In addition, the required information would: ensure that conditions in the IHCS are safe for entry operations; be available for assessment purposes (e.g., to evaluate the effectiveness of the isolation methods; to determine the cause of an accident); and enable employers and employees involved in entry operations to detect conditions, especially during entry operations, that deviate from the planned conditions specified in the document after the initial and pre-entry assessments, and to take whatever action is necessary to assure protection, including summoning the rescue service.

Before any employee enters an IHCS, the two provisions of proposed paragraph (b) require that employers ensure that employees have: the knowledge and skills necessary to recognize the signs, symptoms, and characteristic effects associated with exposure to the isolated IHCS hazards; an understanding of the methods used to isolate these hazards; and, for those employees who will be in or near the IHCS but not authorized to perform entry rescues, an understanding of the dangers of attempting such rescues. A note to this proposed paragraph states explicitly that employers are not required to maintain any record of this training.

The Agency believes that these proposed requirements would ensure that employees recognize IHCS hazards, have knowledge of the methods used to protect them from these hazards, and develop appropriate responses to the hazards. In this regard, recognizing the signs, symptoms, and characteristic effects associated with exposure to the isolated IHCS hazards would enable employees to detect failures in the methods used to isolate IHCS hazards and to evacuate the IHCS if necessary. The proposed provisions also would allow employees to determine if their tasks or the work processes in the IHCS could adversely affect the proper functioning of the hazard-isolation methods. In addition, training employees located in or near a CACS but not authorized to perform entry rescues about the dangers of trying to rescue an injured employee inside the CACS would prevent them from endangering themselves and perhaps the injured employee by making such an attempt.¹⁵

29 CFR 1926.1219 Records

The provisions of this proposed section specify requirements for various records required by the proposed Standard. In this regard, proposed paragraph (a) states that employers must maintain a copy of the Standard at job sites where a confined space is present or, alternatively, they may maintain at a job site a copy of a written confined-space program that incorporates the requirements of the Standard. Under proposed paragraph (b), employers must retain a copy of each entry permit for at least one year.¹⁶ Paragraph (c) of this proposed section requires employers to retain the training records specified by proposed 29 CFR 1926.1209(d)(5) (PRCSs) and 1926.1216(b)(2)(v) (CACs) for the period that the employees addressed by the records are employed by them,¹⁷ while proposed paragraph (d) specifies that employers must retain the documents required by 29 CFR 1926.1216(a)(3), (d)(4), and (e)(3) (CACs) and 1926.1217(a)(4) and (c)(3) (IHCSs) until they complete the work in these confined space. Under paragraph (e), employers must make the documents retained under this proposed section available on request to the Secretary or the Secretary's designee.

OSHA believes that employers and employees would use the copy of the Standard to determine that the procedures necessary for safe entry into a confined space have been followed. As noted previously, training records would enable employers to determine which employees received the training necessary to enter a confined space safely. Retaining a copy of the assessments made of CACs and IHCSs until the entry operations into these confined spaces have been completed would provide employers and employees with the identity of the confined spaces at a job site, the physical and atmospheric hazards in these confined spaces, and the methods used to protect the employees from these hazards. Accordingly, this information would permit employers and employees to systematically evaluate the hazards in confined spaces before entry is attempted,

¹⁵The Agency concludes that these proposed requirements are written in performance-oriented language and, thus, are not considered collections of information under the implementing rules and guidelines of PRA-95.

¹⁶A note to this proposed paragraph also states that when an entry permit is considered an employee exposure record under 29 CFR 1910.1020 (Access to employee exposure and medical records), employers must retain the entry permit as specified by 29 CFR 1910.1020. (29 CFR 1910.1020 is applicable to construction under 29 CFR 1926.33.)

¹⁷Proposed paragraphs (d)(5) of 29 CFR 1926.1209 and (b)(2)(v) of 29 CFR 1926.1216 also require retention of training records. Therefore, OSHA is accounting for the burden hours and cost for retaining these records under the determinations made separately for these two paragraphs in sections (D) and (P), respectively, of Item 12 below, and not for the determinations made in section (S) of Item 12 for this proposed section (29 CFR 1926.1219).

determine whether conditions in the confined space have deviated from planned conditions, and ensure that adequate measures have been taken to make the spaces safe for entry. Finally, the Agency's compliance safety and health officers would need the information to determine, during an inspection, that the employer has specified entry conditions and procedures, and has implemented the specified entry procedures in accordance with the requirements of the standard.

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 would be able to use automated, electronic, mechanical, or other technological information-collection techniques, or other forms of information technology when establishing and retaining the required records. The Agency wrote the paperwork requirements of the proposed Standard in performance-oriented language (i.e., in terms of what data to collect, not how to record the data). However, the following proposed paragraphs would require employers to prepare written documents that must include the signature/initials of the individual who prepares the documentation: paragraphs (a)(3), (d)(4), (e)(3) of proposed 29 CFR 1926.1216; and paragraphs (a)(4) and (c)(3) of proposed 29 CFR 1926.1217. Employers may scan and electronically maintain copies of these signed records.

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 proposed requirements to collect and retain information are specific to each employer and employee involved, and no other source or agency duplicates these proposed requirements or can make the proposed information available to OSHA (i.e., the proposed 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 the burden.

The information-collection requirements specified by the proposed Standard would 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 the burden.

The Agency believes that the information-collection frequencies required by the proposed Standard are the minimum frequencies that would be necessary to effectively regulate confined spaces and, thereby, 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 proposed information collections, or delay in providing this information, employees may be subject to an increased risk of death and serious injury when working in confined spaces.

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 prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No special circumstances exist that would require employers to collect the proposed information using the procedures specified by this Item. The proposed requirements are within the guidelines set forth 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 those 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.

In accordance with 5 CFR 1320.11, OSHA is submitting an information collection request (ICR) to the Office of Management and Budget (OMB) for the proposed Confined Spaces in Construction Standard (29 CFR part 1926, subpart AA). A copy of the proposed rule is attached to this Supporting Statement. Members of the public who wish to comment on the ICR must

submit written comments to the Office of Information and Regulatory Affairs, New Executive Office Building, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503; Attn: OSHA Deck Officer (RIN 1218-AB47). The Agency will summarize comments submitted by the public to OMB on the ICR, and will include the summary in its request to OMB for final approval for the ICR.

OSHA also encourages the public to submit copies of their comments on the ICR to the rulemaking docket (Docket No. OSHA-2007-0026). All comments received on the ICR will be made part of the record on the proposed Standard. For information on how to submit comments and access the rulemaking docket, see the “Public Participation” section in the Notice of Proposed Rulemaking at <http://www.regulations.gov> or contact the OSHA Docket Office, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350 (OSHA’s TTY number is (877) 889-5627).

9. Explain any decision to provide any payments 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 proposed Standard 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 reasons 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.

None of the paperwork provisions in the proposed Standard require 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 cost of contracting out or**

paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.

Burden-Hour and Cost Determinations

Estimates of the burden hours and cost for each information collection requirement in the proposed Standard are shown below (with a summary of these estimates, as well as the estimated number of responses for each of these requirements, provided in Table 1). Information regarding the number of employers/establishments, total number of confined spaces, total number of each type of confined space (i.e., Permit-Required Confined Space, Controlled-Atmosphere Confined Space, and Isolated-Hazard Confined Space), total number of employees exposed to confined spaces, and total number of employees exposed to each type of confined space is from a report entitled “Rulemaking Support for the Proposed OSHA Confined Space Standard for Construction” by the CONSAD Research Corporation (“the CONSAD Report”);¹⁸ the CONSAD Report is available as Exhibit 4 in the docket established for the proposed Standard.¹⁹ OSHA estimated most burden-hour determinations using construction experts from its staff; however, when so indicated, several of these determinations are from the “Preliminary Regulatory Impact Analysis and Initial Regulatory Flexibility Analysis” (Pre-RIA; see Exhibit 3) prepared for the proposed Standard.

In determining the wage rates for the various occupations that perform the paperwork requirements, the Agency relied on the rates used in the CONSAD report. The specific wage rate for each occupation is provided as follows:

- Supervisor: \$31.61
- Specifically skilled employee: \$25.15
- Clerical employee: \$14.62
- General construction employee: \$22.09

(A) 29 CFR 1926.1204(c)

The CONSAD Report found that contractors encounter about 640,682 confined spaces each year, while the Pre-RIA finds that a supervisor would take five minutes (.08 hours) to provide the required information regarding each confined space to a controlling contractor or host employer. The estimated annual burden hours and cost for this proposed paragraph is:

Burden hours: 640,682 confined spaces x .08 hours = 51,255 hours
Cost: 51,255 hours x \$31.61 = \$1,620,171

(B) 29 CFR 1926.1205(b)(1)

¹⁸Prepared for the U.S. Department of Labor, Occupational Safety and Health Administration, Office of Regulatory Analysis by CONSAD Research Corporation, Pittsburgh, PA, June 8, 2005.

¹⁹The docket may be accessed at www.regulations.gov.

The Agency estimates that a supervisor would take five minutes (.08 hours) to collect information on an IDLH exposure (e.g., the name of the atmospheric contaminant, the level of exposure) and provide or communicate it to a medical facility that is treating an employee exposed to the IDLH atmosphere in a confined space. In addition, OSHA assumes that 100 such treatments would occur each year. The yearly burden hours and cost for this proposed requirement is estimated to be:

Burden hours: 100 treatments x .08 hours = 8 hours

Cost: 8 hours x \$31.61 = \$253

(C) 29 CFR 1926.1209(a)(2)

Based on data from the CONSAD Report, employees would enter about 115,963 PRCSS each year.²⁰ The language on the warning signs required by this proposed paragraph for these PRCSS is provided by the proposed Standard (i.e., "Danger—Permit Required Confined Space—Authorized Employees Only" or "Danger—Do Not Enter Without a Permit"). Therefore, in accordance with 5 CFR 1320.3(c)(2) of PRA-95, this proposed requirement does not fall within the definition of a collection of information. However, the proposed paragraph allows the employer to use similar language on the danger sign if desired. The Agency believes an employer would only rarely opt for similar language. For the purposes of this Supporting Statement, OSHA estimates that two percent of the PRCSS would include a danger sign with language other than that provided by the proposed paragraph. The Agency also assumes that signs would last five years (i.e., an average annual rate of 20 percent), and that it would take a general construction employee five minutes (.08 hours) to fabricate a sign with the appropriate language. OSHA estimates the annual burden hours and cost for this proposed requirement are:

Burden hours: 115,963 PRCSS x .02 (% of signs) x .20 (annual rate) x .08 hours =
37 hours

Cost: 37 hours x \$22.09 = \$817

(D) 29 CFR 1926.1209(d)(5)

According to information available in the CONSAD Report, the Agency estimates that approximately 217,200 employees would enter PRCSS annually.²¹ OSHA believes that each year, ten percent of these employees (21,720) would be new employees, employees who receive new PRCSS-related tasks, or employees exposed to a new PRCSS hazard; a new training record would have to be generated and maintained for these employees under the proposed paragraph.

²⁰The CONSAD Report determined that employees make 5,046,068 entries into a total of 640,682 confined spaces each year, and that 913,014 (18.1%) of these entries involve PRCSS. Assuming that the number of confined-space entries is proportionate to the different types of confined spaces, then 115,963 of the 640,682 confined spaces (i.e., 18.1% x 640,682 confined spaces) would be PRCSS.

²¹The CONSAD Report found that 1,200,000 employees enter confined spaces each year. Assuming that the number of employees entering PRCSS is proportionate to the percentage of confined spaces that are classified as PRCSS (i.e., 18.1%), then 217,200 of the employees who enter confined spaces would be entering PRCSS (i.e., 18.1% x 1,200,000 employees).

The Agency estimates that a clerical employee would take one minute (.02 hours) to maintain a training record for the 195,480 employees who require no new training (i.e., 217,200 total employees – 21,720 employees requiring a new training record), and three minutes (.05 hours) to generate and maintain a training record for each of the 21,720 new or retrained employees. The annual burden hours and cost for this proposed provision are estimated to be:

Burden hours: (195,480 employees requiring no new training x .02 hours to maintain their records) + (21,720 new or retrained employees x .05 hours to generate and retain their records) = 4,996 hours
Cost: 4,996 hours x \$14.62 = \$73,042

(E) 29 CFR 1926.1209(f)

OSHA assumes that a supervisor would take 30 minutes (.50 hours) to develop procedures for safely terminating PRCS entry operations for both planned and emergency conditions for each of the 115,963 PRCSs established each year. The yearly burden hours and cost of this proposed provision is estimated to be:

Burden hours: 115,963 PRCSs x .50 hours = 57,982 hours
Cost: 57,982 hours x \$31.61 = \$1,832,811

(F) 29 CFR 1926.1210(a)

Before any employees enters one of the 115,963 PRCSs established each year, proposed paragraph (a) requires employers to prepare a written entry permit and post it at the point where employees enter the PRCS. Each entry permit must contain the information specified by 29 CFR 1926.1214 of the proposed Standard. The Agency assumes that it would take an average of fifteen minutes (.25 hours) for a general construction employee to generate and post each entry permit. The estimated annual burden hours and cost of these proposed requirements are:

Burden hours: 115,963 entry permits x .25 hours = 28,991 hours
Cost: 28,991 hours x \$22.09 = \$640,411

(G) 29 CFR 1926.1210(e)(2)(v) and 1926.1211(e)(3)

According to the CONSAD report, employees would make 913,014 PRCS entries each year. The Agency assumes that it would take one minute (.02 hours) for entry supervisors, who are general construction employees, to sign an entry permit for each of these entries, and that, for ten percent (91,301) of these entries, a replacement entry supervisor would have to sign the entry permit. OSHA estimates that the annual burden hours and cost of this proposed provision are:

Burden hours: (913,014 entries + 91,301 entries) x .02 hours = 20,086 hours
Cost: 20,086 hours x \$22.09 = \$443,700

(H) 29 CFR 1926.1211(c)

Proposed paragraph (c) requires that employers, during entry operations, document on each PRCS entry permit specific information about the physical and atmospheric hazards in the PRCS, including any atmospheric monitoring results obtained during entry operations. OSHA estimates that it would take an average of 10 minutes (.17 hours) for a specially skilled employee to generate the required information on each of the 115,963 entry permits generated each year. The yearly burden hours and cost of this proposed paragraph are estimated to be:

Burden hours: 115,963 entry permits x .17 hours = 19,714 hours

Cost: 19,714 hours x \$25.15 = \$495,807

(I) 29 CFR 1926.1211(f)(5), (f)(6), (f)(7), and (f)(11)

OSHA estimates the following burden hours for an attendant, who is a general construction employee, to accomplish these proposed paperwork requirements: for each of the 913,014 PRCS entries, fifteen minutes (.25 hours) to communicate with authorized entrants as necessary while monitoring their status, and to alert them of the need to evacuate the PRCS; for the one-tenth of one per cent (913) of these entries estimated to involve rescue operations, two minutes (.03 hours) to recognize unsafe conditions, inform the entry-rescue service whenever a non-entry or entry rescue is needed, and inform the employer when an non-entry or entry rescue begins or an authorized entrant may need medical aid or assistance in escaping from the PRCS; and, for ten percent (91,301) of these entries, one minute (.02 hours) to warn any individual who is not an authorized entrant and approaches a PRCS during entry operations to stay away from the PRCS or to exit the PRCS if that individual enters the PRCS, as well as to inform the authorized entrant and entry supervisor of any such unauthorized entry. The estimated burdens hours and cost for these proposed requirements each year are:

Burden hours: (913,014 entries x .25 hours) + (913 entries x .03 hours) + (91,301 entries x .02 hours) = 230,107 hours

Cost: 230,107 hours x \$22.09 = \$5,083,064

(J) 29 CFR 1926.1211(g)(2), (g)(3), and (g)(4)(i)

The Agency assumes that attendants, who are general construction employees, would take a total of fifteen minutes (.25 hours) during each of the 913,014 entries to communicate with the attendant who is monitoring their status, and to inform the attendant of any signs, symptoms, unusual behavior, or other effects of PRCS hazards in themselves or other authorized entrants.

Additionally, OSHA estimates that an attendant or entry supervisor would take one minute (.02 hours) to order authorized entrants to evacuate a PRCS when evacuation is necessary (i.e., for the one per cent (9,130) of entries in which an attendant observes unsafe conditions). The Agency determines that the yearly burden hours and cost of these proposed provisions to be:

Burden hours: (913,014 entries x .25 hours) + (9,130 entries x .02 hours) = 228,437 hours

Cost: 228,437 hours x \$22.09 = \$5,046,173

(K) 29 CFR 1926.1211(h)(2)

For the one-tenth of one per cent (913) of entries that may involve rescue, OSHA estimates that a supervisor would take two minutes (.03 hours) to summon an entry-rescue service after a non-entry rescue begins; when an entry supervisor or attendant orders an evacuation; when an authorized entrant detects or learns of an unplanned condition, any sign, symptom, unusual behavior or other effect of a hazard, or an evacuation alarm; or when a reasonable probability exists that an authorized entrant may need medical aid or assistance in exiting or escaping from the PRCs. The estimated annual burden hours and cost of this proposed paragraph are:

Burden hours: (913 entries x .03 hours) = 27 hours

Cost: 27 hours x \$31.61 = \$853

(L) 29 CFR 1926.1213(b)(2)

For the one-tenth of one per cent (913) of entries that may involve rescue, the Agency assumes that it would take a supervisor two minutes (.03 hours) to inform the entry-rescue service, prior to entering a PRCs to perform a rescue, of the physical and atmospheric hazards they are likely to encounter in the PRCs, as well as other relevant information known by the employer. OSHA determines that the burden hours and cost of this proposed provision each year to be:

Burden hours: (913 entries x .03 hours) = 27 hours

Cost: 27 hours x \$31.61 = \$853

(M) 29 CFR 1926.1214(b)

OSHA believes that it would take a supervisor fifteen minutes (.25 hours) to review each of the 115,963 cancelled entry permits and other available related information collected each year. The yearly burden hours and cost for this proposed requirement is estimated to be:

Burden hours: 115,963 reviews x .25 hours = 28,991 hours

Cost: 28,991 hours x \$31.61 = \$916,406

(N) 29 CFR 1926.1216(a)(3)

Based on data in the CONSAD Report, the Agency finds that employers would perform entry operations in 213,988 CACs each year.²² OSHA estimates that specially skilled employees would take ten minutes (.17 hours) to document initial CACS conditions as required by this proposed provision. In addition, the Agency assumes that employers would make these

²²The CONSAD Report determined that employees make 5,046,068 entries into a total of 640,682 confined spaces each year, and that 1,687,457 (33.4%) of these entries involve CACSs. Assuming that confined-space entries are distributed proportionately among the different types of confined spaces, then 213,988 of the 640,682 confined spaces (i.e., 33.4% x 640,682 confined spaces) would be CACSs.

documents available to the employees entering a CACS, and to their authorized representatives, by having a construction employee post a copy of the document near the entrance to the CACS, and that it would take construction employees one minute (.02 hours) to do so for each of the 213,988 CACSs established each year. The burden-hour and cost estimates for developing and posting the proposed documentation are:

$$\begin{aligned} \text{Burden hours: } & (213,988 \text{ CACSs} \times .17 \text{ hours (document development)}) + \\ & (213,988 \text{ CACS} \times .08 \text{ hours (posting)}) = 53,497 \text{ hours} \\ \text{Cost: } & (36,378 \text{ hours} \times \$25.15 \text{ (document development)}) + \\ & (17,119 \text{ hours} \times \$22.09 \text{ (posting)}) = \$1,293,066 \end{aligned}$$

(O) 29 CFR 1926.1216(b)(1)(ii)

The language on the warning signs required by this proposed paragraph for CACSs is provided by the proposed Standard (i.e., "Danger—Controlled Atmosphere Confined Space—Authorized Employees Only"). Therefore, in accordance with 5 CFR 1320.3(c)(2) of PRA-95, this proposed requirement does not fall within the definition of a collection of information. However, the proposed paragraph allows the employer to use similar language on the danger sign if desired. The Agency believes an employer would only rarely opt for similar language. For the purposes of this Supporting Statement, OSHA estimates that two percent of the 213,988 CACSs would have a danger sign with language other than that provided by the proposed paragraph. The Agency also assumes that signs would last five years (i.e., an average annual rate of 20 percent), and that it would take a general construction employee five minutes (.08 hours) to fabricate a sign with the appropriate language. OSHA estimates the annual burden hours and cost for this proposed requirement to be:

$$\begin{aligned} \text{Burden hours: } & 213,988 \text{ CACSs} \times .02 \text{ (\% of signs)} \times .20 \text{ (annual rate)} \times .08 \text{ hours} = 68 \text{ hours} \\ \text{Cost: } & 68 \text{ hours} \times \$22.09 = \$1,502 \end{aligned}$$

(P) 29 CFR 1926.1216(b)(2)(v)

According to information available from the CONSAD Report, the Agency estimates that about 400,800 employees would enter CACSs annually.²³ OSHA believes that each year, ten percent of these employees (40,080) would be new employees, employees who receive new CACS-related tasks, or employee exposed to a new CACS hazard; a new training record would have to be generated and maintained for these employees under the proposed paragraph. The Agency estimates that a clerical employee would take one minute (.02 hours) to maintain a training record for the 360,720 employees who require no new training (i.e., 400,800 total employees – 40,080 employees requiring a new training record), and three minutes (.05 hours) to generate and

²³The CONSAD Report found that 1,200,000 employees enter confined spaces each year. Assuming that the number of employees entering CACSs is proportionate to the percentage of confined spaces that are classified as CACSs (i.e., 33.4.1%), then 400,800 of the employees who enter confined spaces would be entering CACSs (i.e., 33.4% x 1,200,000 employees).

maintain a training record for each of the 40,080 new or retrained employees. The annual burden hours and cost for this proposed provision are estimated to be:

Burden hours: (360,720 employees requiring no new training x .02 hours to maintain their records) + (40,080 new or retrained employees x .05 hours to generate and retain their records) = 9,218 hours

Cost: 9,218 hours x \$14.62 = \$134,767

(Q) 29 CFR 1926.1216(d)(4) and (e)(3)

These two proposed paragraphs require documentation of CACS conditions just before and during CACS entry operations. OSHA estimates that it would take a specially skilled employee ten minutes (.17 hours) to complete each document. Additionally, the Agency assumes that employers would make these documents available to the employees entering a CACS, and to their authorized representatives, by having a construction employee post a copy of each document near the entrance to the CACS, and that it would take construction employees one minute (.02 hours) to post each document at each of the 213,988 CACSs established each year. The burden-hour and cost estimates for these two proposed provisions are:

Burden hours: (213,988 CACSs x 2 documents x .17 hours (document development)) + (213,988 CACSs x 2 documents x .08 hours (posting)) = 106,994 hours

Cost: (72,756 hours x \$25.15 (document development)) + (34,238 hours x \$22.09 (posting)) = \$2,586,131

(R) 29 CFR 1926.1217(a)(4) and (c)(3)

Based on information available in the CONSAD Report, OSHA determined that employers would perform entry operations in 310,731 IHCSs.²⁴ Under these two proposed paragraphs, employers must provide information on initial IHCS conditions, as well as IHCS conditions just before beginning entry operations, in two separate documents. The Agency believes that specially skilled employees would take ten minutes (.17 hours) to complete and maintain each document. Additionally, OSHA assumes that employers would make these documents available to the employees entering a IHCS, and to their authorized representatives, by having a construction employee post a copy of each document near the entrance to the CACS, and that it would take construction employees one minute (.02 hours) to post each document at each of the 310,731 IHCSs established each year. OSHA estimates the burden hours and cost for these two proposed provisions to be:

Burden hours: (310,731 IHCSs x 2 documents x .17 hours (document development)) + (310,731 IHCSs x 2 documents x .08 hours (posting)) = 155,366 hours

Cost: (105,649 hours x \$25.15 (document development)) +

²⁴The CONSAD Report determined that employees make 5,046,068 entries into a total of 640,682 confined spaces each year, and that 2,445,597 (48.5%) of these entries involve IHCSs. Assuming that confined-space entries are distributed proportionately among the different types of confined spaces, then 310,731 of the 640,682 confined spaces (i.e., 48.5% x 640,682 confined spaces) would be CACSs.

$$(49,716 \text{ hours} \times \$22.09(\text{posting})) = \$3,755,298$$

(S) 29 CFR 1926.1219(a), (b), and (d)

The Agency believes that it would take a general construction employee one minute (.02 hours) to post a copy of the Standard or a copy of a confined-space program at the 640,682 job sites having confined spaces as required by proposed paragraph (a). For the written confined-space programs mentioned in proposed paragraph (a), OSHA assumes that the employers at one per cent (6,407) of these job sites would opt to write a confined-space program for posting, and that it would take a supervisor one hour to develop a written program. The Agency determined that a clerical employee would require one minute (.02 hours) to retain each of the 115,963 PRCS entry permits for at least one year as specified by proposed paragraph (b). Regarding the proposed requirement to maintain the documents specified by paragraph (d) until employees complete their work in CACSs and IHCSs, OSHA determined that a clerical employee would take one minute (.02 hours) for each of these records. Accordingly, clerical employees would maintain a total of 641,964 documents describing initial, pre-entry, and during-entry conditions in CACSs (i.e., 213,988 CACSs x 3 types of conditions (initial, pre-entry, and during-entry)), and a total of 621,462 documents describing initial and pre-entry conditions in IHCSs (i.e., 310,731 IHCSs x 2 types of conditions (initial and pre-entry)). For these proposed paperwork requirements, OSHA determined the annual burden hours and cost to be:²⁵

Burden hours: 640,682 confined-space postings x .02 hours = 12,814 hours
6,407 written confined-space programs for posting x 1.00 hour = 6,407

hours

115,963 PRCS entry permits (retain) x .02 hours = 2,319 hours
641,964 CACS initial, pre-entry, and during-entry documents (retain) x .02 hours = 12,839 hours
621,462 IHCS initial and pre-entry documents (retain) x .02 hours = 12,429 hours

Total burden

hours: 46,808 hours

Cost: (12,814 hours x \$14.62) + (6,407 hours x \$31.61) + (2,319 x \$14.62) +
(12,839 hours x \$14.62) + (12,429 hours x \$14.62) = \$793,188

(T) Records Disclosure (§1926.1219(e))

The Agency assumes that it would take two minutes (.03 hours) for a supervisor to disclose to an OSHA compliance officer during an inspection the location of the documents required to be retained by employers under this proposed section, and that OSHA compliance officers would conduct inspections at 1,271 establishments each year.²⁶ The estimated annual burden hours and cost of this proposed provision are:

²⁵Footnote 17 provides an explanation for excluding paragraph (c) of 29 CFR 1926.1219 from this determination.

²⁶The Agency estimated the number of inspections by determining the inspection rate (1.4%) for all establishments under the jurisdiction of the Act (including both Federal OSHA and approved state-plan agencies), and then multiplying the total number of establishments regulated under the proposed Standard by this percentage

Burden hours: 1,271 establishments inspected x .03 hours to disclose records = 38 hours
Cost: 38 hours x \$31.61 = \$1,201

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 collections 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 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.**

Item 12 above provides the total cost of the information collection requirements specified by the proposed Standard.

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), any other expense that would not have been incurred without this collection of information. Agencies may also 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 \$34.15, would spend about five minutes (.08 hour) during an inspection reviewing the documents required by the proposed Standard. The Agency determines that its compliance officers would inspect about 1,271 establishments that conduct entry operations in confined spaces regulated by the proposed Standard during each year covered by this ICR (see section (T) under Item 12 above). 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 proposed Standard. Therefore, the total cost of these paperwork requirements to the Federal government is:

(i.e., 90,760 establishments x 1.4% = 1,271 establishment inspected per year.

Cost: 1,271 inspections x .08 hour x \$34.15 = \$3,472

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

The burden hours for the collection of information requirements contained in the proposed Standard would result in a total program change of 1,017,788 hours. No costs are reported under Item 14 of the OMB 83-I.

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 proposed 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 inappropriate.

This Supporting Statement was developed for the proposed Standard; therefore, no expiration date would be displayed.

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

OSHA is not seeking an exception to the certification statement specified by Item 19 of OMB 83-I.

Table 1**Proposed Burden Hours, Number of Responses, and Proposed Cost Each Year
for the Proposed Information Collection Requirements**

Information Collection Requirement	Proposed Burden Hours	No. of Responses	Proposed Cost (\$)
(A) 29 CFR 1926.1204(c)	51,255	640,682	1,620,171
(B) 29 CFR 1926.1205(b)(1)	8	100	253
(C) 29 CFR 1926.1209(a)(2)	37	464	817
(D) 29 CFR 1926.1209(d)(5)	4,996	217,200	73,042
(E) 29 CFR 1926.1209(f)	57,982	115,963	1,832,811
(F) 29 CFR 1926.1210(a)	28,991	115,963	640,411
(G) 29 CFR 1926.1210(e)(2)(v) and (e)(3)	20,086	1,004,315	443,700
(H) 29 CFR 1926.1211(c)	19,714	115,963	495,807
(I) 29 CFR 1926.1211(f)(5), (f)(6), (f)(7), and (f)(11)	230,107	1,005,228	5,083,064
(J) 29 CFR 1926.1211(g)(2), (g)(3), and (g)(4)(i)	228,437	922,144	5,046,173
(K) 29 CFR 1926.1211(h)(2)	27	913	853
(L) 29 CFR 1926.1213(b)(2)	27	913	853
(M) 29 CFR 1926.1214(b)	28,991	115,963	916,406
(N) 29 CFR 1926.1216(a)(3)	53,497	427,976	1,293,066
(O) 29 CFR 1926.1216(b)(1)(ii)	68	856	1,502
(P) 29 CFR 1926.1216(b)(2)(v)	9,218	400,080	134,767
(Q) 29 CFR 1926.1216(d)(4) and (e)(3)	106,994	855,952	2,586,131
(R) 29 CFR 1926.1217(a)(4) and (c)(3)	155,366	1,242,924	3,755,298
(S) 29 CFR 1926.1219(a), (b), and (d)	46,808	2,026,478	793,188
(T) 29 CFR 1926.1219(e)	38	1,271	1,201
TOTALS	1,042,647	9,212,068	24,719,514