

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE OSHA-7 FORM
("NOTICE OF ALLEGED SAFETY AND HEALTH HAZARDS")¹
(Office of Management and Budget (OMB) Control No. 1218-0064(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, Section (8)(f)(1) of the OSH Act states:

Any employees or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to [OSHA] of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, and a copy shall be provided the employer or [the employer's agent] no later than at the time of inspection, except that, upon the request of the person giving such notice, [that person's] name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification [OSHA] determines there are reasonable grounds to believe that such violation or danger exists, OSHA shall make a special inspection in accordance with the provisions of this section as soon as practicable (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 §1903.11 ("Complaints by employees"). Under paragraphs (a) and (c) of §1903.11 ("Complaints by employees"), employees and their representatives may notify the OSHA area director or an OSHA compliance officer of safety and health hazards regulated by the Agency that they believe exist in their workplaces. These provisions state further that this notification must be in writing and "shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of the employees."

¹The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with the paperwork requirements of the OSHA-7 Form; this Supporting Statement does not provide information or guidance on how to comply with, or how to enforce, these requirements.

Along with providing specific hazard information to the Agency, paragraph (a) permits employees/employee representatives to request an inspection of the workplace. Paragraph (c) also addresses situations in which employees/employee representatives may provide the information directly to the OSHA compliance officer during an inspection.

An employer's former employees, as well as others may also submit complaints to the Agency; these complaints account for 30-40% of all complaints received by the Agency. Subsequent discussions in this Supporting Statement will refer to current and former employees as "complainants."

To address the requirements of paragraphs (a) and (c), especially the requirement that the information be in writing, the Agency developed the OSHA-7 Form; this form standardized and simplified the hazard reporting process. For paragraph (a), they may complete an OSHA-7 Form obtained from the Agency's website and then send it to OSHA online, or deliver a hardcopy of the form to the OSHA area office by mail or facsimile, or by hand. They may also write a letter containing the information and hand deliver it to the area office, or send it by mail or facsimile. In addition, they may provide the information orally to the OSHA area office or another party (e.g., a Federal safety and health committee for Federal employees), in which case the area office or other party completes the hardcopy version of the form. For the typical situation addressed by paragraph (c), an employee/employee representative informs an OSHA compliance officer orally of the alleged hazard during an inspection, and the compliance officer then completes the hardcopy version of the OSHA-7 Form; occasionally, the employee/employee representative provides the compliance officer with the information on the hardcopy version of the OSHA-7 Form.

The information in the hardcopy version of the OSHA-7 Form includes information about the employer and alleged hazards, including: The establishment's name, mailing address, and telephone and facsimile numbers; the site's address and telephone and facsimile numbers; the name and telephone number of the management official; the type of business; a description and the specific location of the hazards, including the approximate number of employees exposed or threatened by the hazards; and whether or not the employee/employee representative informed the employer or another government agency about the hazards (and the name of the agency if so informed).

Additional information on the hardcopy version of the form addresses the complainant, including: Whether or not the complainant wants OSHA to reveal their name to the employer; whether the complainant is an employee or an employee representative, or, for information provided orally, a member of a Federal safety and health committee or another party (with space to specify the party); the complainant's name, telephone number, and address; and the complainant's signature attesting that they believe a violation of an OSHA standard exists at the named establishment; and the date of the signature. An employee representative must also provide the name of the organization they represent and their title.

The information contained in the online version of the OSHA-7 Form is similar to the hardcopy version. However, the online version requests the complainant's e-mail address, and does not

ask for the establishment's and site's telephone and facsimile numbers or the complainant's signature and signature date. The complaint can also be filed online at OSHA's website.

Item 2 below describes the purposes served by the information collected on the OSHA-7 Form and the other methods used to register the safety and health complaints of employees/employee representative under 29 CFR § 1903.11. Item 12 below specifies the information collections, including the burden hours and costs associated with these collections, in detail.

- 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 Agency uses the information collected on the OSHA-7 Form to determine whether or not reasonable grounds exist to conduct an inspection of the workplace. The description of the hazards, including the number of exposed employees, allows the Agency to assess the severity and probability of the hazards and the need to expedite the inspection. The completed form also provides an employer with notice of the complaint and may serve as the basis for obtaining a search warrant if an employer denies the Agency access to the workplace.

- 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.**

As noted above in Item 1, the Agency makes available a number of methods to simplify reporting complaints regarding violations of OSHA safety and health standards. These methods include completing and sending the OSHA-7 Form on-line, retrieving the form from the Agency's website and sending the completed form to OSHA by mail or facsimile, or by hand. In addition, complainants can provide the information orally to the Agency or another party by telephone (including OSHA's 800 number) or in person.

- 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 contained in the OSHA-7 Form is specific to each complainant involved, and no other sources or agencies duplicate these requirements or can make this information available to OSHA, i.e., the required information is available only from complainants.

- 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 collection of information on the OSHA-7 Form does not impact small businesses or other small entities. This information is only available from a complainant, and is the minimum necessary for the Agency to determine whether or not reasonable grounds exist to justify the inspection, and to assess the severity of the alleged hazards.

- 6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The provisions of 29 CFR § 1903.11 do not specify a frequency for reporting complaints regarding alleged workplace hazards (i.e., complainants voluntarily provide information regarding alleged workplace hazards at any time). However, the Agency believes that the OSHA-7 Form is an efficient and effective method for collecting the required information in a timely manner to address serious hazards when complainants want to register such complaints. Accordingly, the form helps OSHA to fulfill its mandate “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” as specified in the OSH Act at 29 U.S.C. 651. If complainants cannot use the form to notify OSHA of safety and health hazards, it will be difficult for them to give the appropriate detailed information concerning the circumstances of the hazards, including the information needed to evaluate the severity and probability, that OSHA needs in order to decide if an inspection is needed.

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.

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 complainants to collect information in the manner, or using the procedures specified by this item; the completion and submission of the OSHA-7 Form are within the guidelines specified by 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that

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

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

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

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the Federal Register on October 30, 2007 (72 FR 61377, Docket No. OSHA-2007-0074) requesting public comment on its proposal to extend the Office of Management and Budget's approval of the OSHA-7 Form, Notice of Alleged Safety and Health Hazards). This notice was part of a preclearance consultation program that provided the general public and government agencies with an opportunity to comment. The Agency received no comments in response to its notice.

- 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.**

As specified by Section (8)(f)(1) of the OSH Act (29 U.S.C. 657) and paragraph (a) of 29 CFR 1903.11, complainants may ask the Agency to remove their names and the names of individuals referred to in the complaint from any copy or record published, released, or made available by OSHA. The Privacy Act does not cover this collection of 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.**

The OSHA-7 Form does not request 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.

Burden-Hour and Cost Determinations

In Calendar Year 2006, the Agency received 48,298 complaints (26,321 from Federal jurisdiction states and 21,977 from State Plan states) about workplace hazards using the OSHA-7 Form.² In making burden hour and cost determinations, the Agency assumes one complaint per respondent, for a total of 48,298 respondents. To determine the percentage of complaints received electronically, orally, or in writing, OSHA contacted several area offices in different regions of the country. Area Offices had differing percentages of complaints being submitted electronically, orally, or in writing. However, due to the ease of use of the OSHA 800 number, the Agency estimates about 75% of the complaints are being submitted orally. Electronic submissions are the second most used means of submitting complaints, followed by written submissions.

The Agency estimates that the requirement for complainants to provide the information specified by 29 CFR §1903.11 results in a total of 12,775 burden hours and costs a total of \$341,221 (see following sections).

(A) Electronic Submission of OSHA-7 Forms

When a complainant completes and sends the OSHA-7 Form online, it goes directly to the OSHA area office nearest to the workplace identified on the form. Based on interviews with compliance officers in several area offices, the Agency estimates that approximately 20% of the 48,298 complaints (9,660 complaints) are submitted on-line and an employee takes, at a wage rate of \$26.71 per hour,³ about 17 minutes (.28 hour) to complete and send the form. Accordingly, the annual burden hours and cost associated with providing the required information on-line are:

²This number includes all OSHA-7 Forms received during Calendar Year 2006 regardless of whether or not the complaint adequately justified an OSHA inspection.

³To calculate this hourly wage rate, OSHA took the mean of the average hourly wage rates for manufacturing employees (\$27.23) and construction employees (\$26.19). Source for wage rates: *Employer Costs for Employee Compensation, Occupational wages in the United States, June 2007*, U.S. Department of Labor, Bureau of Labor Statistics, <http://stats.bls.gov/home.htm>. Total compensation for these occupational categories includes an adjustment of 29.5 percent (*Employer Costs for Employee Compensation, May 2007, pp.4*) for fringe benefits; this figure represents the average level of fringe benefits in the private sector. The costs of labor used in this analysis are, therefore, estimates of total hourly compensation.

Burden hours: 9,660 on-line forms x .28 hour = 2,705 hours
Cost: 2,705 hours x \$26.71 = \$72,251

(B) Oral Complaints

A complainant may provide the required information orally three ways either by: (1) calling OSHA's 800 number (1-800-321-OSHA [6742]), (2) calling an area office, or (3) in person at the area office. In all cases a compliance officer will transfer the information to an OSHA-7 Form.

If a complainant provides the required information orally, a compliance officer (either in the area office or by telephone) records the information on the OSHA-7 Form. After additional interviewing of several compliance officers in different parts of the country, whether a complaint uses e-mail, files a complaint electronically online, or files a complaint orally, the Agency estimates that approximately 75% of the total number of complaints (48,298 number of OSHA-7 forms x 75% = 36,224 complaints) are verbal. Additionally, OSHA determines that a complainant needs 15 minutes (.25 hour) to communicate the information to a compliance officer. Therefore, the total burden hours and cost of providing the information orally are:

Burden hours: 36,224 oral complaints x .25 hour = 9,056 hours
Cost: 9,056 hours x \$26.71 = \$241, 886

(C) Written Complaints

A complainant may submit a complaint in writing to a compliance officer (either at the workplace or an area office) by downloading a hardcopy version of the OSHA-7 Form from the Agency's website and completing it by hand, or writing a letter that contains the required information; they may submit the form or letter by mail or facsimile, or by hand. The Agency believes that the remaining 5% of complaints (2,415) received each year are written; it also assumes that a complainant spends on average 25 minutes (.42 hour) completing a hardcopy version of the form, or writing a letter and responding to any follow-up questions asked by a compliance officer. Accordingly, the yearly burden-hour and cost estimates for providing the required information in writing are:

Burden hours: 2,415 written complaints x .42 hours =1,014 hours
Cost: 1,014 hours x \$26.71 = \$27,084

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 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.

OSHA assumes the 2,415 respondents who prepare written complaints will mail their complaints and that it will cost 41¢ to mail their OSHA-7 Form to OSHA. Therefore, the total capital cost to complainants of mailing written complaints to OSHA is \$990 (2,415 mailings x 41¢).

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.

An OSHA compliance officer must complete an OSHA-7 Form if the complainant provides the required information orally or submits the information in a letter. The Agency estimates that a compliance officer (GS-12, step 5), at an hourly wage rate of \$36.26⁴ spends 15 minutes (.25 hour) and 25 minutes (.42 hour), respectively, entering the oral and written information onto an OSHA-7 Form. The Agency assumes that compliance officers must complete OSHA-7 Forms for every oral complaint (36,224) and half of the written complaints (1,208; i.e., complaints sent as letters). The Agency considers other expenses, such as equipment, overhead, and support staff salaries, as normal operating expenses that would occur without the need for compliance officers to complete OSHA-7 Forms. Therefore, the total cost of these paperwork requirements to the Federal government is:

Cost: ((36,224 oral complaints x .25 hour = 9,056) + (1,208 letters x .42 hour = 507)) x \$36.26 = \$346,754

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

OSHA is requesting an 836 burden hour decrease from 13,611 to 12,775 burden hours. The reduction is primarily due to a reduction in the estimated number of OSHA-7 forms being processed from 50,955 to 48,298 forms.

⁴Source: *Office of Personnel Management, Salary Table –GS, 2007 General Schedule*

There was an overall increase in cost from \$692 to \$990. The increase occurred due to an increase in the estimated number of written OSHA-7 forms being received from 1,870 to 2,415 forms. Also the cost of postage increased from 37¢ to 41¢.

According to ROCIS, there is a \$10.00 reduction. In the previous ICR submission, the OMB 83-I form required that annual reporting and recordkeeping costs be reported in “thousands of dollars.” Therefore, the Agency previously reported a cost of \$1,000.00. This submission OSHA estimates a cost of \$990.00, resulting in a \$10 reduction.

- 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 on the OSHA-7 Form.

- 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.**

The Agency will display the expiration date for OMB approval on both the paper and electronic versions of the OSHA-7 Form.

- 18. Explain each exception to the certification statement identified in Item 19 of OMB 83-I.**

OSHA is not requesting an exception to the certification statement in Item 19.