

**SUPPORTING STATEMENT FOR THE  
INFORMATION COLLECTION REQUIREMENTS OF THE  
UNDERGROUND CONSTRUCTION STANDARD (29 CFR 1926.800)<sup>1</sup>  
(Office of Management and Budget (OMB) Control No. 1218-0067(2008))**

## **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” or “Act”) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the OSH Act specifically authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651). 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. 651).

The Act specifically authorizes the Occupational Safety and Health Administration (“OSHA” or “Agency”) to issue standards that “prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprized of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure” (29 U.S.C. 655). In addition, the OSH Act mandates 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).

To protect employee health, the OSH Act authorizes the Agency to develop standards that provide for “monitoring or measuring employee exposure” to occupational hazards and “prescribe the type and frequency of medical examinations and other tests which shall be made available [by the employer] to employees exposed to such hazards . . . to most effectively determine whether the health of such employees is adversely affected by such exposure” (29 U.S.C. 655). Moreover, the Act directs the Agency to “issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or other harmful physical agents which are required to be monitored and measured . . .” (29 U.S.C. 657). In addition, the OSH Act mandates that “[e]ach employer shall make, keep and preserve, and make available to the Secretary [of Labor] . . . such records regarding [his/her] activities relating this

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

Act as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . . ” (29 U.S.C. 657).

Under the authority granted by the OSH Act, the Agency published its Standard on Underground Construction at § 1926.800. This standard contains information collection requirements for posting warning signs and notices, certifying inspection records for hoists, and developing and maintaining records for air-quality tests. Items 2 and 12 below describe the specific information collection requirements of these paragraphs.

**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 following sections describe the purpose and use of the information-collection requirements contained in the § 1926.800.

**(A) Posting Warning Signs and Notices**

Seven paragraphs of § 1926.800 require employers to post warning signs or notices during underground construction. The table below identifies these paragraphs and cites the regulatory text containing the paperwork requirement.

<b>Paragraph</b>	<b>Regulatory Text</b>
(b)(3)	Unused chutes, manways, or other openings shall be tightly covered, bulkheaded, or fenced off, and shall be posted with warning sign indicating “Keep Out” or similar language.
(i)(3)	Each entrance to a gassy operation shall be prominently posted with signs notifying all entrants of the gassy conditions.
(j)(1)(vi)(A)	Prominently post a notice at all entrances to the underground jobsite to inform all entrants [that air contaminants may be present in sufficient quantity to be dangerous to life.]
(m)(2)(ii)	Readily visible signs prohibiting smoking and open flames shall be posted in areas having fire or explosion hazards.
(o)(2)	The employer shall ensure ground stability in hazardous subsidence areas by shoring, by filling in, or by erecting barricades and posting warning signs to prevent entry.
(q)(11)	A caution sign reading “Buried Line,” or similar wording shall be posted where air lines are buried or otherwise hidden by water or debris.
(t)(1)(iv)(B)	A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator’s station, and at each underground landing.

The warning signs and notices required by these provisions enable employers to effectively alert employees to the presence of hazards or potential hazards at the job site, thereby preventing employee exposure to hazards or potential hazards associated with underground construction that could kill or seriously injure them.

## **(B) Certifying Inspection Records for Hoists**

Paragraph (t)(3)(xxi) of § 1926.800 requires employers to inspect and load test hoists when they install them, and annually thereafter; they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes the following information: The date of the inspection and load test; a serial number or other identifier for the hoist; and the signature of the individual who performed the inspection and load test. In addition, employers must maintain the most recent certification record until they complete the construction project.

The inspections and load tests identify problems such as deterioration caused by exposure to adverse weather conditions, worn components and other flaws and defects that develop during use, and accelerated wear resulting from misalignments of connecting systems and components. Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems that need correction. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other employees who work near the equipment. In addition, these records provide the most efficient means for an OSHA compliance officer to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

## **(C) Recordkeeping for Air Quality Tests**

The standard requires employers to monitor air quality during underground construction. The following table lists the paragraphs containing the requirements for air-quality tests, and provides a brief description of each requirement.

<b>Paragraph</b>	<b>Requirement for Air-Quality Test</b>
(j)(1)(ii)(A) through (j)(1)(iii)(A)	Employers must conduct quantitative air quality tests for oxygen, carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, as well as dusts, vapors, mists, and fumes as often as necessary.
(j)(1)(iii)(B)	Employers must monitor quantitatively for methane and other flammable gases as often as necessary.
(j)(1)(iii)(C)	If employers use ventilating fans or compressors driven by a diesel or gasoline engines, they must initially test the inlet air of the operating engines to ensure that engine exhaust is not contaminating the air supply.
(j)(1)(iii)(D)	Employers must conduct air quality tests: <ul style="list-style-type: none"><li>• As necessary to maintain adequate levels of fresh air as specified by paragraph (k)(1)(i) of the standard; and</li><li>• To assess affected areas for accumulations of methane or flammable gas after reducing or stopping, and then restoring, ventilation, consistent with paragraphs (k)(7) and (k)(8) of the standard.</li></ul>

(j)(1)(iv)	If employers use rapid excavation machines for underground construction, they must operate a continuous flammable gas monitor with the sensor(s) of the monitor placed as high and close to the front of the machine's cutter head as practicable.
(j)(1)(v)(A)	If hydrogen sulfide is present at concentrations of five part per million (ppm) or more, employers must test the affected work areas at least at the beginning and midpoint of each shift until the hydrogen sulfide level is less than five ppm for three consecutive days.
(j)(1)(v)(B)	Employers must test affected work areas continuously for hydrogen sulfide if it exceeds 10 ppm.
(j)(2)(i) through (j)(2)(v)	<p>If underground construction operations are potentially gassy or gassy as specified by paragraph (h) of the standard,* employers must:</p> <ul style="list-style-type: none"> <li>• Test for oxygen levels in affected work areas and in areas immediately adjacent to these areas at least at the beginning and midpoint of each shift;</li> <li>• When using rapid excavation machines, test the air at the heading, on the rib, and in the return air duct using continuous automatic flammable gas monitoring equipment;</li> <li>• Use a manual flammable gas monitor as necessary, but at least at the beginning and midpoint of the shift to ensure that oxygen, carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dusts, vapors, mists, fumes, and methane and other flammable gases do not exceed the limits specified by the standard;</li> <li>• Conduct local tests prior to, and continuously during, any welding, cutting, or other hot work; and</li> <li>• In underground operations involving drill-and-blast methods, test the air in affected areas for flammable gas prior to re-entry, and continuously if employees are working in the areas.</li> </ul>

\*This paragraph classifies an underground operation as potentially gassy if air monitoring shows 10% or more of the LEL for methane or other flammable gas for more than a 24-hour period, or the history of the geographical area or geological formation indicates that 10% or more of the LEL for methane or other flammable gas is likely to be encountered during underground operations. An underground operation is gassy if air monitoring discloses 10% or more of the lower explosive limit (LEL) for methane or other flammable gas for three consecutive days, ignition of methane or other flammable gas emanating from the strata, or a work area classified as gassy and subject to a continuous course of air that contains a flammable gas connects to the underground construction operation.

Paragraph (j)(3) contains the recordkeeping requirements for the air quality tests mandated by paragraph (j) of § 1926.800. These recordkeeping requirements specify that employers must maintain, at an above ground location at the jobsite, a record of every air quality test conducted during the underground construction project. Each air quality record must include the location, date, time, substance, and amount tested. Employers must retain air quality records associated with employee exposures to toxic substances according to the requirements of § 1926.33 (“Access to employee exposure and medical records”), and maintain other air quality test records until the underground construction project is complete; they must also make the records available to OSHA compliance officers on request.

Maintaining records of air quality tests allows employers to document oxygen levels and specific atmospheric contaminants, ascertain the effectiveness of controls (especially ventilation), and implement additional controls if necessary; they can also provide this information to crews on later shifts. Accordingly, employers will prevent serious injury and death to employees who work on the underground construction project. In addition, these records provide an efficient means for employees to evaluate the accuracy and effectiveness of an employer's exposure

reduction program and for OSHA compliance officers to determine that employers performed the required tests and implemented appropriate controls.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.**

Employers may use any available technology to meet the paperwork requirements specified by § 1926.800. The Agency wrote these provisions in performance-oriented language, i.e., in terms of what information to provide, not how to provide it.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The information collection requirements in § 1926.800 are specific to each employer involved, and no other sources or agencies duplicate these requirements or can make the required information available to OSHA, i.e., the required information is available only from employers.

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

The information collection requirements specified by § 1926.800 do not have a significant impact on a substantial number of small entities.

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

The Agency believes that the information collection frequencies required by § 1926.800 are the minimum frequencies necessary to fulfill its mandate “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” as specified in the OSH Act at 29 U.S.C. 651. Accordingly, if employers do not perform the information collections required by § 1926.800, or delay in providing this information, employees are at risk of serious injuries or death while working on underground-construction projects.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

- **In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No special circumstances exist that require employers to collect information in the manner or using the procedures specified by this item; the paperwork requirements in §1926.800 conform to 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 these comments. Specifically address comments received on cost and hour burden.**

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

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

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c) (2) (A)), OSHA published a Federal Register on December 14, 2007 (72 FR 71161, Docket No. ICR-1218-0067-0085 notice requesting public comment on its proposed extension of the information collection requirements contained in the Underground Construction Standard (29 CFR 1926.800). This notice is part of a preclearance consultation program intended to provide interested parties with an opportunity to comment on OSHA's request for an extension by the Office of Management and Budget (OMB) of a previous approval on the information collection requirements found in the standard. The Agency did not receive any public comments in response to this 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.**

The paperwork requirements specified by § 1926.800 do not involve confidential information.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reason why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The paperwork requirements specified by § 1926.800 do not involve sensitive information.

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

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

### **Burden Hour and Cost Determinations**

The following sections describe the burden hour and cost estimates for the information collection requirements specified by § 1926.800. These sections determine burden hours and cost separately for posting warning signs and notices, certifying inspection records for hoists, and recordkeeping for air quality tests. OSHA estimates that these information collection requirements result in a total of 57,949 burden hours and cost a total of \$1,804,490.

In the previous ICR, OSHA relied on information from the American Underground Construction Association.<sup>2</sup> That data indicated that the construction industry starts about 150 underground construction projects a year. Twenty of these projects involve tunnels with bores over five feet (i.e., “big-bore projects”); the remaining 130 projects are small- and medium-bore projects. On average, it takes about three years to complete a big-bore project and two years to complete a small- or medium-bore project. Therefore, for each year of the three-year period covered by this ICR, 60 big-bore projects and 260 small- and medium-bore projects (for a total of 320 projects) will be under construction.<sup>3</sup> In addition, OSHA estimates that each year contractors classify an average of one new underground construction project as gassy or potentially gassy; if each of these projects lasts about three years, then three gassy projects will be under construction annually (see footnote 3).

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<sup>2</sup>American Underground Construction Association (AUCA); Howard J. Hanedwith, Chair., via fax letter dated 04/06/98.

<sup>3</sup>This determination accounts for contractors completing some projects from the previous three-year period during the current three-year period.

OSHA believes that it is the usual and customary practice of the construction industry to designate one employer (i.e., contractor) at a project to perform the required air quality tests and record the test results. Therefore, a total of 323 contractors are responsible for the paperwork requirements associated with the air-quality tests performed at the 323 projects (including gassy projects) under construction four times a year. The Agency assumes that these contractors are also responsible for the other two paperwork requirements specified by § 1926.800--posting warning signs and notices, and certifying the inspection records for hoists.

The Agency has received anecdotal information from several underground construction industry representatives that modern digital and computer technologies have greatly improved environmental monitoring. Many instruments sample every second or so for as many as five air/gas conditions simultaneously. These instruments incorporate alarms and data storage in handheld or portable configurations. The instruments may be calibrated, operationally checked and recharged simply by placing them in a docking station. These docking stations also download the monitoring data directly to computer storage in a matter of seconds. Data retrieval is as fast as accessing the file and printing it. Some representatives indicate that placing an instrument in a docking station, having the data downloaded and printed, and the instrument checked as well as recalibrated including test gas takes one to one and a half minutes. They also indicate that battery recharging requires approximately 90 minutes. However, there is no need for the charging to be attended or recorded. The instruments indicate when they are properly charged and ready for use.

The Agency understands that as old instruments retire underground contractors upgrade to the newer more efficient devices; however, the extent of use of the newer devices is unknown. As a consequence of this lack of information the Agency seeks no change in the burden hours associated with its standards regulating underground construction and only seeks changes based on updated employee costs.

The Agency will continue to work with representatives of the underground construction industry to collect data, which more accurately indicates the burden created by section 1926.800 regulations. The American Underground Construction Association no longer exists and has been reconstituted as the Underground Construction Association of SME (Society for Mining, Metallurgy, and Exploration). This new division of SME is in the process of developing data but not in time to affect Agency estimates for this ICR.

#### **(A) Posting Warning Signs and Notices**

The Agency believes that contractors implement two of the seven posting requirements (§ 1926.800(m)(2)(ii) and (t)(1)(iv)(B)) for each underground-construction project once a year, while for the remaining five posting requirements (§ 1926.800(b)(3), (i)(3), (j)(1)(vi)(A), (o)(2) and (q)(11)), they post the specified signs or notices in about half (i.e., 162) of these projects each year. In addition, OSHA determines that a construction worker, at an hourly wage rate of



\$29.12,<sup>4</sup> spends five minutes (.08 hour) developing and posting each sign or notice.<sup>5</sup> Therefore, the annual burden hours and cost associated with these posting requirements are:

$$\begin{aligned} \text{Burden hours: } & ((2 \text{ postings} \times 323 \text{ projects}) + (3 \text{ postings} \times 162 \text{ projects})) \times .08 \text{ hour} = \\ & 91 \text{ hours} \\ \text{Cost: } & 91 \text{ hours} \times \$29.12 = \$2,650 \end{aligned}$$

### **(B) Certifying Inspection Records for Hoists**

Under paragraph (t)(3)(xxi) of § 1926.800, contractors must inspect and perform load tests on hoists annually, as well as under other specified conditions, and then prepare a certification record of each inspection and load test that provides required information. OSHA assumes that: Each of the 323 underground construction projects uses one hoist; a construction worker inspects and performs a load test on the 50% of the 323 hoists annually, while the other 50% will be tested four times a year (one of the four inspections will be the required annual inspections); and this worker takes one hour to inspect, load test, and complete and maintain a certification record for the hoist. Accordingly, the burden-hour and cost estimates for this paperwork requirement are:

$$\begin{aligned} \text{Burden hours: } & (323 \text{ projects} \times 50\% \times 4 \text{ (four times a year)}) + (323 \text{ projects} \times 50\% \times 1 \\ & \text{(annually)}) \times 1 \text{ hour} = 808 \text{ hours} \\ \text{Cost: } & 808 \text{ hours} \times \$29.12 = \$23,529 \end{aligned}$$

### **(C) Recordkeeping for Air Quality Tests**

To comply with §1926.800(j), contractors usually test and record results for five substances (i.e., oxygen, methane, carbon monoxide, nitrogen oxide, and hydrogen sulfide). The monitors typically used for this purpose are electronic units with the following characteristics: Stand-alone with simultaneous and continuous readouts for the five substances (i.e., no delay in obtaining the readouts) (the “continuous monitors”); hand-held with simultaneous readouts for the five substances and a 30-second delay to obtain the readouts (the “simultaneous monitors”); and hand-held with serial readouts for the five substances and a 30-second delay to obtain each readout (for a total of 2.5 minutes to obtain five readouts) (the “serial monitors”). In addition to obtaining the readouts, the Agency estimates that a construction worker requires 30 seconds to record the results for all five substances. Therefore, the total time required to obtain the readouts and record the results for five substances at one sampling location for each type monitor is: Continuous monitors, 30 seconds (.008 hour); simultaneous monitors, 1.0 minute (.017 hour); and serial monitors, 3.0 minutes (.05 hour).

### **Big-Bore Projects**

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<sup>4</sup>The Agency used the Bureau of Labor Statistics “Employer Costs for Employee Compensation” ”Total Compensation” for private industry 2007 Second Quarter data for construction employment extracted on November 19, 2007 for this information.

<sup>5</sup>No construction worker’s time is taken to develop and post signs for § 1926.800(b)(3) and (q)(11) since specific language is provided in the regulatory text.

OSHA estimates that, on average, contractors on big-bore projects read and record air-quality results at least once a day from six different locations (i.e., at the face of the tunnel, and at five additional jobsites within the tunnel). They typically use continuous monitors at the face of the tunnel, resulting in a total of 250 records per project during a 250-day work-year (i.e., 1 record per day x 250 days). At the other five locations, the industry sources estimate that half of the contractors take air quality measurements with simultaneous monitors and the other half use serial monitors. During a 250-day work-year, contractors record 625 readouts from each of these monitors per project (i.e., ((5 samples per day x 250 days) ÷ 2 types of monitors)). Thus, the estimated annual burden hours and cost for reading and recording the air-quality samples for the 60 big-bore projects under construction each year are:

$$\begin{aligned} \text{Burden hours: } & ((250 \text{ continuous-monitor records} \times .008 \text{ hour}) + \\ & (625 \text{ simultaneous-monitor records} \times .017 \text{ hour}) + (625 \text{ serial-monitor} \\ & \text{records} \times .05 \text{ hour})) \times 60 \text{ projects} = 2,633 \text{ hours} \\ \text{Cost: } & 2,633 \text{ hours} \times \$29.12 = \$76,673 \end{aligned}$$

### Small- and Medium-Bore Projects

#### *Projects with conventionally-bored tunnels*

OSHA estimates that two-thirds (173) of the 260 small- and medium-bore projects use conventional boring techniques. Additionally, the Agency assumes that contractors adopt the same monitoring protocol for these projects that they implement for big-bore projects (i.e., at the face of the tunnel, and at five additional jobsites within the tunnel). Accordingly, once-a-day continuous monitoring at the face of the tunnel results in a total of 250 records per project during a 250-day work year. At the other five locations, half of them collect the readings with simultaneous monitors and the other half use serial monitors; during a work year, each of these monitors obtains 625 records per project. Therefore, this monitoring requirement results in the following burden hour and cost estimates each year:

$$\begin{aligned} \text{Burden hours: } & ((250 \text{ continuous-monitor records} \times .008 \text{ hour}) + \\ & (625 \text{ simultaneous-monitor records} \times .017 \text{ hour}) + (625 \text{ serial-monitor} \\ & \text{records} \times .05 \text{ hour})) \times 173 \text{ projects} = 7,590 \text{ hours} \\ \text{Cost: } & 7,590 \text{ hours} \times \$29.12 = \$221,021 \end{aligned}$$

#### *Projects that bore with microtunneling equipment*

The remaining 87 small- and medium-bore projects consist of tunnels bored with microtunneling equipment; this technology reduces employee entry into the underground-construction worksites compared to tunnels bored using conventional techniques, thereby reducing the monitoring requirements. Accordingly, the Agency estimates that contractors monitor each such project once daily at the face of the tunnel and at two jobsites within the tunnel. In addition, OSHA assumes that contractors involved in microtunneling use continuous monitors at the face of the tunnel, resulting in a total of 250 records per project during a 250-day work-year. At the two remaining locations, half obtain the readings with simultaneous monitors and the other half use

serial monitors; therefore, during a 250-day work year, they use each of these monitors to collect results for 250 records per project (i.e., ((2 records per day x 250 days) ÷ 2 types of monitors)). The yearly burden-hour and cost estimates for this monitoring requirement are:

$$\begin{aligned} \text{Burden hours: } & ((250 \text{ continuous-monitor records} \times .008 \text{ hour}) + \\ & (250 \text{ simultaneous-monitor records} \times .017 \text{ hour}) + (250 \text{ serial-monitor} \\ & \text{records} \times .05 \text{ hour})) \times 87 \text{ projects} = 1,631 \text{ hours} \\ \text{Cost: } & 1,631 \text{ hours} \times \$29.12 = \$47,495 \end{aligned}$$

### Gassy Projects

OSHA assumes that gassy projects require continuous monitoring at the face of the tunnel and at five locations within the tunnel, and that these monitors have an automatic signaling device that activates an alarm (at the jobsite, above ground, or both) if a gas exceeds a preset level. The Agency estimates that the contractors read and record the results from a monitor twice each shift (for three shifts each day) during a 250-day work year, for a yearly total of 1,500 records for each monitor. With three gassy projects under construction each year, the annual burden hours and cost associated with monitoring gassy projects are:

$$\begin{aligned} \text{Burden hours: } & (1,500 \text{ continuous-monitor records} \times .008 \text{ hour}) \times 6 \text{ locations} \times \\ & 3 \text{ projects} = 216 \text{ hours} \\ \text{Cost: } & 216 \text{ hours} \times \$29.12 = \$6,290 \end{aligned}$$

### Monitor Calibration

The Agency assumes that a contractor must calibrate a monitor after taking each set of air quality measurements. OSHA estimates that, on average, a construction worker trained by the employer to calibrate monitors spends about 10 minutes (.17 hour) calibrating a continuous monitor, and takes about five minutes (.08 hour) to calibrate a serial or simultaneous monitor. Based on the information regarding monitoring records contained in this section (“Recordkeeping for Air-Quality Tests”), OSHA determined that contractors make the following air-quality measurements each year: Big-bore projects, 15,000 continuous-monitor measurements and 75,000 serial- or simultaneous-monitor measurements; small- and medium-bore projects, 65,000 continuous-monitor measurements and 259,750 serial- or simultaneous-monitor measurements; and gassy projects, 27,000 continuous-monitor measurements. Therefore, the total number of continuous-monitor measurements is 107,000 (15,000 + 65,000 + 27,000), and the total number of measurements using serial or simultaneous monitors is 334,750 (75,000 + 259,750). Accordingly, the annual burden hour and cost estimates for this calibration requirement are:

$$\begin{aligned} \text{Burden hours: } & (107,000 \text{ continuous-monitor measurements} \times .17 \text{ hour}) + \\ & (334,750 \text{ serial- or simultaneous-monitor measurements} \times .08 \text{ hour}) = \\ & 44,970 \text{ hours} \\ \text{Cost: } & 44,970 \text{ hours} \times \$29.12 = \$1,309,526 \end{aligned}$$

### **(D) Maintaining Check-In/Check Out Procedures (§ 1926.800(c))**

The standard requires that employers must maintain a check-in/check-out procedure to ensure that aboveground personnel can determine an accurate count of the number of persons underground in the event of an emergency.

OSHA believes that the underground construction company establishes a company wide check-in/check-out procedure ensuring that above ground personnel have accurate counts of the number of people underground. The Agency estimates that it would take 2 minutes (.03 hour) to maintain this procedure.

**Burden hours:** (323 projects x .03 hour) = 10 hours

**Cost:** 10 hours x \$29.12 = \$291

**(E) Performance-Oriented Provisions (§ 1928.800 (d), (e)(1), (e)(2), (j)(1)(v)(c), (q)(6), and (t)(3)(iii))**

The following paragraphs require employers to instruct, inform or provide information to employees. Since the standard does not specify how or what specific information the employer must disclose to the employer, the Agency believes this is performance-oriented and is not taking a burden: (d) Instruct employees to recognize and avoid hazards; (e)(1) Inform oncoming shifts of hazards; (e)(2) Employers must establish and maintain direct communications with other employees; (j)(1)(v)(C) Inform employees when hydrogen sulfide concentration exceeds 10 ppm; (q)(6) Warn employees on jumbo decks whenever drilling is about to begin.

Finally, paragraph (t)(3)(iii) assigning the load and speed ratings to hoists used for both personnel and material hoisting. OSHA believes this is covered in paragraph (t)(3)(xxi) where contractors must inspect and perform load tests on hoists annually, as well as under other specified conditions, then prepare a certification record of each inspection and load test that provides required information. Therefore, OSHA is not taking a burden for paragraph (t)(3)(iii).

**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.**

The capital cost of these paperwork requirements consists mainly of replacing the exposure monitors. As noted under Item 12 above (“Monitor Calibration”), OSHA estimates that each underground construction project uses two monitors, for a total of 646 monitors (i.e., 323 projects x 2 monitors each). Based on manufacturers’ data, the Agency finds that the average monitor costs about \$1,800.<sup>6</sup> In addition, OSHA believes that employers replace about 10% (65) of the monitors each year. Accordingly, the annual total cost of replacing the monitors is:

$$\text{Cost: } 65 \text{ monitors} \times \$1,800 = \$117,000$$

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

The Agency estimates that a compliance officer (GS-12, step 5), at an hourly wage rate of \$37.89, spends about five minutes (.08 hour) during an inspection reviewing the paperwork requirements of § 1926.800. OSHA determines that its compliance officers will conduct five such inspections during each year covered by this ICR.<sup>7</sup> The Agency considers other expenses, such as equipment, overhead, and support staff salaries, as normal operating expenses that would occur without the collection of information requirements specified by § 1926.800. Therefore, the total cost of these paperwork requirements to the Federal government is:

$$\text{Cost: } 5 \text{ inspections} \times .08 \text{ hour} \times \$37.89 = \$15$$

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

There are no program changes or adjustments reported in Items 13 or 14 of the OMB Form 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 § 1926.800.

**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.**

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<sup>6</sup>Regardless of the type of monitor: Continuous, simultaneous, or serial.

<sup>7</sup>The Agency estimated the number of inspections by determining the inspection rate (1.4%) for all facilities under the jurisdiction of the OSH Act (including both Federal OSHA and approved state-plan agencies) for 1999, and then multiplied the total number of facilities (i.e., underground construction projects) covered by the standard (323) by this percentage (i.e., 323 projects x 1.4% = 5 inspections).

No forms are available for the Agency to display the expiration date.

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

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