

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
STANDARD ON GRAIN HANDLING FACILITIES (29 CFR 1910.272)¹
OFFICE OF MANAGEMENT AND BUDGET (OMB)
NO. 1218-0206 (April 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 Occupational Safety and Health Act's (OSH Act) main objective is to "assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources" (29 U.S.C. 651). To achieve this objective, the OSH Act specifically authorizes "the development and promulgation of occupational safety and health standards" (29 U.S.C. 651). In addition, the OSH Act specifies that "[e]ach employer shall make, keep and preserve, and make available to the Secretary . . . such records . . . as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . ." (29 U.S.C. 657).

Under the authority granted by the OSH Act, the Occupational Safety and Health Administration (OSHA) published a standard on Grain Handling Facilities at 29 CFR 1910.272 (the "Standard").

Paragraph (d) of the Standard requires the employer to develop and implement an emergency action plan so that employees will be aware of the appropriate actions to take in the event of an emergency.

Paragraph (e)(1) requires that employers provide training to employees at least annually and when changes in job assignment will expose them to new hazards.

Paragraph (f)(1) requires the employer to issue a permit for all hot work. Under paragraph (f)(2) the permit shall certify that the requirements contained in 1910.272(a) have been implemented prior to beginning the hot work operations and shall be kept on file until completion of the hot work operation.

Paragraph (g)(1)(i) requires the employer to issue a permit for entering bins, silos, or tanks unless the employer or the employer's representative is present during the entire operation. The permit shall certify that the precautions contained in paragraph (g) have been implemented prior to employees entering bins, silos or tanks and shall be kept on file until completion of the entry operations.

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

Paragraph (g)(1)(ii) requires that the employer deenergize, disconnect, lockout and tag, block-off or otherwise prevent operation of all mechanical, electrical, hydraulic, and pneumatic equipment which presents a danger to employees inside grain storage structures.

Paragraphs (i)(1) and (i)(2) require the employer to inform contractors performing work at the grain handling facility of known potential fire and explosion hazards related to the contractor's work and work area and to explain to the contractor the applicable provisions of the emergency action plan.

Paragraph (j)(1) requires the employer to develop and implement a written housekeeping program that establishes the frequency and method(s) determined best to reduce accumulations of fugitive grain dust on ledges, floors, equipment, and other exposed surfaces.

Under paragraph (m)(1), the employer is required to implement preventive maintenance procedures consisting of regularly scheduled inspections of at least the mechanical and safety control equipment associated with dryers, grain stream processing equipment, dust collection equipment including filter collectors, and bucket elevators. Paragraph (m)(3) requires a certification be maintained of each inspection.

Paragraph (m)(4) requires the employer to implement procedures for the use of tags and locks which will prevent the inadvertent application of energy or motion to equipment being repaired, serviced, or adjusted.

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 written housekeeping program is used by employers in understanding their duties and responsibilities as an integral part of an overall program to control dust; and, what specific actions they are to take to reduce dust accumulations at the facility. The written housekeeping program is also used by compliance officers as a measure of compliance to compare the planned actions specified in the housekeeping program to those actually implemented to maintain an effective dust control program.

Failure to have a written housekeeping program would result in the absence of a formalized policy on the part of the employer regarding the importance of the facility dust control program, what actions are to be taken during certain circumstances, and the duties and responsibilities of employees in removing dust accumulations. The absence of these factors could adversely impact the effectiveness of the facility dust control program.

Additionally, if an incident occurs, employees should be aware of the appropriate actions in advance that need to be taken during the emergency. The hot work permit is to assure that the employer is aware of the hot work being performed and that appropriate safety precautions have been taken prior to beginning the work. The permit for entering bins, silos, or tanks is to assure that employers and employees know if these spaces are safe to enter, and the requirement to deenergize equipment which presents a danger to employees entering these bins, silos, or tanks is to assure that employees are not injured due to accidental energization of equipment.

The procedures for the use of tags and locks while servicing equipment is meant to prevent inadvertent injury to employees servicing equipment. Finally, the requirement for certification records of maintenance inspections reiterates to the employer and employees that scheduled inspections have been performed.

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

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

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

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

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

The information collection requirements specified by the Standard 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 information collection frequencies specified by the Standard are the minimum frequencies that the Agency believes is necessary to assure OSHA compliance officers that employees are safe while performing duties in grain handling facilities.

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

- Requiring respondents to report information to the agency more often than quarterly;
- Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Requiring respondents to submit more than an original and two copies of any document;
- Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;

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

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

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

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

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

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the *Federal Register* on February 5, 2008 (73 FR 6742, Docket No. OSHA-2008-0001) requesting public comment on its proposed extension of the information collection requirements contained in the Grain Handling Facilities Standard (29 CFR 1910.272). This notice was part of a preclearance consultation program to provide those interested parties the opportunity to comment on OSHA's request for an extension by the Office of Management and Budget (OMB) of a previous approval of the information collection requirements found in the Standard. 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.

The paperwork requirements specified by the Standard do not require the collection of confidential information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reason why the agency considers the questions necessary, the specific uses to be made of the

information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The paperwork requirements specified by the Standard do not require the collection of sensitive information.

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

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

Burden-Hour and Cost Determinations

U.S. Department of Agriculture data indicate a decline over time in the number of off-farm grain handling facilities. Data from 2006 indicates that the total number is now approximately 9,348.² Alternately, the structure of the grain mill industry has not changed substantially from the time the 1987 Regulatory Impact Analysis (RIA) was formulated; thus, the Agency is retaining the estimate of 9,000 feed mills³ while updating the number of oil seed processing, flour, rice, and animal food mills, for a total of 19,121 grain elevators and mills covered by the standard.

Grain Elevators:	8,829	Country
	301	Inland-terminal
	167	High-throughput inland-terminal
	<u>51</u>	Export
	9,348	Total

²Source: “Off-Farm Grain Storage Capacity and Facilities.” *Grain Stocks*. National Agricultural Statistics Service, Agricultural Statistics Board, United States Department of Agriculture, January 2007, Page 28. In consultation with the NASS, OSHA was unable to identify updated statistics regarding the number of country, inland-terminal, high-throughput inland-terminal, and export grain elevators. To determine updated values, OSHA applied the same ratio of grain elevator types to the total number of grain elevators that existed in the previous ICR.

³In consultation with the NASS, American Seed Trade Association, National Grain and Feed Association, and the Grain Elevator and Processing Society, OSHA was unable to determine an updated estimate for the number of feed mills in the U.S. However, considering the relatively small changes in structure and number of establishments in other types of mills in the U.S., it is assumed that this estimate is still appropriate.

Mills:	9,000	Feed mills
	139	Oil seed processing ⁴
	317	Flour mills ⁵
	73	Rice mills ⁶
	<u>244</u>	Dog and cat food mills ⁷
	9,773	Total

9,348 grain elevators + 9,773 mills = 19,121 total facilities

Emergency action plan – 1910.272(d)
Housekeeping program – 1910.272(j)(1)
Procedures for tags and locks -- 1910.272(m)(4)

Because many mills are attached to elevators (the majority of employees in small and medium feed mills are also employees of country elevators), facilities need to develop only one plan/program/procedure per site. Since the standard has been in effect for some time and no new facilities have been identified, OSHA is assuming that all of the facilities are currently in compliance with the provisions except for an estimated 3 percent (19,121 facilities x .03 = (574)) that may need to modify their emergency action plans/housekeeping programs and tag and lock procedures annually. OSHA estimates that it takes one hour to modify each of the three plans.

Burden hours: 574 facilities x 3 hours modifications = **1,722 hours**

Cost: 1,722 burden hours x \$46.17⁸ = **\$79,505**

Training --1910.272(e)(1)

The Agency has determined that the training provision is performance-oriented and; thus, not subject to the implementing rules and guidelines of PRA-95. Therefore, there are no burden hours or cost associated with this provision.

⁴ Source: U.S. Census Bureau, *County Business Patterns*, 2005. This includes those establishments in NAICS 311222 and the portion of NAICS 311225 comprising “Soybean Oil Mills.”

⁵NAICS 311211

⁶NAICS 311212

⁷NAICS 311111

⁸The wage rate is for a Manager and is taken from the most recent data from *Employer Cost for Employee Compensation—June 2007*, Bureau of Labor Statistics, U.S. Department of Labor. The wage rate includes fringe benefits of 29 percent.

Hot work permit -- 1910.272(f)(1)

The employer is required to issue a permit for hot work unless the employer or the employer's representative is present while the hot work is performed; or in welding shops; or in hot work areas located outside of the grain handling structure. OSHA estimates that 40 hot work operations are conducted yearly by each facility but only half will require a permit to be issued. OSHA estimates that it takes three minutes (.05 hour) for a manager to generate and maintain the permit.

Burden hours: 19,121 facilities x 50% permits issued x 40 hot work operations x .05 hour = **19,121 hours**

Cost: 19,121 burden hours x \$46.17 = **\$882,817**

Permit for entering bins, silos or tanks --1910.272(g)(1)(i)

Deenergization of equipment -- 1910.272(g)(1)(ii)

These sections apply to entry into grain storage structures. To enter, an employer must issue a permit unless the employer or the employer's representative is present during the entire operation. Based on previous information provided by an OSHA area office and a grain dealer association, OSHA estimates that at country elevators, entry into grain storage structures may occur 4 times a year. OSHA also estimates that the majority of country grain elevators are small employers and choose to have their representative present (in lieu of issuing a permit) during these non-routine operations. Therefore, OSHA believes that no more than 25 percent of these small (country elevator) employers would issue a permit. For all other elevators (i.e., inland-terminals, high-throughput inland terminals, and export) [301 + 167 + 51 = 519], OSHA estimates that entries are conducted, on average, 100 times per year and that a permit is always issued. OSHA estimates that it takes three minutes (.05 hour) to prepare and maintain the permit.

Burden hours: (8,829 facilities x .25 = 2,207) x 4 permits issued x .05 hour = **441 hours**

Cost: 441 burden hours x \$46.17 = **\$20,361**

Burden hours: 519 facilities x 100 permits issued x .05 hour to generate/maintain permit = **2,595 hours**

Cost: 2,595 burden hours x \$46.17 = **\$119,811**

In addition, in order to enter the structure, all mechanical, electrical, hydraulic, and pneumatic equipment which presents a danger to employees must be deenergized by disconnecting, locking out and tagging, blocking off, or by other equally effective means or methods. OSHA estimates that for each entry, equipment must be deenergized 100 percent of the time and is locked out and tagged to meet the standard. OSHA estimates it takes 2 minutes (.03 hour) to affix a tag.

Burden hours: 8,829 facilities x 4 entries x .03 hour to affix tag = **1,060 hours**

Cost: 1,060 burden hours x \$46.17 = **\$48,940**

Burden hours: 519 facilities x 100 entries x .03 hour to affix tag = **1,557 hours**

Cost: 1,557 burden hours x \$46.17 = **\$71,887**

Contractors -- 1910.272(i)(1) and 1910.272(i)(2)

OSHA believes that it is a usual and customary practice for employers to inform contractors performing work at grain handling facilities of known potential fire and explosion hazards; however, for 85% of the total number of facilities, employers will expend 15 minutes (.25 hour) to provide necessary information to contractors regarding the employer's emergency response plan.

Burden hours: 19,121 facilities x 85% x .25 hour = **4,063 hours**

Cost: 4,063 burden hours x \$46.17 = **\$187,589**

Preventive maintenance inspections/certification record -- 1910.272(m)

This certification refers to regularly scheduled inspections of at least the mechanical and safety control equipment associated with dryers, grain stream processing equipment, dust collection equipment including filter collectors, and bucket elevators. OSHA has used the total number of facilities (19,121) for the assignment of equipment. OSHA also estimates that it will take three minutes (.05 hour) to generate and maintain the certification record.

Bulk raw grain dryers (applies to elevators only), one dryer per elevator.

Burden hours: 9,348 dryers x 12 inspections/year = 112,176 inspections
112,176 inspections x .05 hour = **5,609 hours**

Cost: 5,609 burden hours x \$46.17 = **\$258,968**

Grain stream processing equipment is found in both elevators and mills for the removal of ferrous material from the incoming grain stream (hammer mills, grinders, and pulverizers are also found in elevators and mills). For these elevators, it is estimated there is one stream per facility, except for the 519 larger elevators (non-country) (estimated average 10 per larger elevator).

Burden hours: $(19,121 - 519) + (519 \times 10) = 23,792$ streams
 $23,792$ streams \times 12 inspections/year = $285,504$ inspections
 $285,504$ inspections \times $.05$ hour = **14,275 hours**

Cost: $14,275$ burden hours \times $\$46.17 =$ **$\$659,077$**

Dust collection (elevators and mills), one system per facility.

Burden hours: $19,121 \times 12$ inspections/year = $229,452$ inspections
 $229,452$ inspections \times $.05$ hour = **11,473 hours**

Cost: $11,473$ burden hours \times $\$46.17 =$ **$\$529,708$**

Bucket elevators (applies to elevators only), one bucket elevator per elevator except for larger elevators (non-country); estimated 10 bucket elevators per larger elevator.

Burden hours: $8,829 + (519 \times 10) = 14,019$ bucket elevators
 $14,019$ bucket elevators \times 12 inspections/year = $168,228$ inspections

$168,228$ inspections \times $.05$ hour = **8,411 hours**

Cost: $8,411$ burden hours \times $\$46.17 =$ **$\$388,336$**

OSHA is not taking a burden for the time it takes to do the inspection. As stated in 5 CFR part 1320.3(b)(2), “the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities will be excluded from the burden.” Conducting these inspections is a usual and customary business practice based on consensus code, insurance code and industry association recommendations.

Disclosure of Certification Records

OSHA believes that approximately 268 establishments covered by the Standard⁹ will be subject to an OSHA inspection and required to disclose certification records annually (see Item 14 below). OSHA estimates that it will take a supervisor 2 minutes (.03 hour) to disclose the requested information.

Burden hours: 268 inspections \times $.03$ hour = **8 hours**

Cost: 8 burden hours \times $\$46.17 =$ **$\$369$**

⁹The Agency estimated the number of inspections by determining the inspection rate (1.4%) for all employers under the jurisdiction of the OSH Act (including both Federal OSHA and approved state-plan agencies) and then multiplying the total number of facilities covered by the Standard (i.e., 19,121 facilities \times 1.4% = 268 inspections).

TOTAL BURDEN HOURS: 70,355 hours
TOTAL COST: \$3,247,368

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 cost determined under Item 12 accounts for the total annual cost burden to respondents or recordkeepers resulting from these collection of information requirements.

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

OSHA estimates that a compliance officer (GS-12, step 5), with an hourly wage rate of \$37.89, spends about 5 minutes (.08 hour) during an inspection reviewing the documents required by the Standard. The Agency determines that its compliance officers will conduct an estimated 268 inspections during each year covered by this ICR.¹⁰ OSHA considers other expenses, such as equipment, overhead, and support staff salaries, to be normal operating expenses that would occur without the paperwork requirements specified by the Standard. Therefore, the total cost of these paperwork requirements to the Federal government is:

Cost: 268 inspections x .08 hour x \$37.89 = \$812

¹⁰See footnote 9.

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

OSHA is requesting an adjustment decrease in the number of burden hours from 73,572 hours to 70,355 hours for a total decrease of 3,217 hours. This adjustment decrease is a result of a decline in the number of grain elevators and mills. Table 1 below explains the proposed 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 under the Standard.

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

There are no forms which display the expiration date.

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

OSHA is not seeking such an exception

Table 1

Requested Burden Hour Adjustments

Information Collection Requirement	Current Burden Hours	Requested Burden Hours	Adjustment to Hours	Cost Under Item 12	Responses	Explanation of Adjustment
Emergency action plan - - 1910.272(d) Housekeeping program -- 1910.272(j) Procedures for tags and locks --1910.272(m)(4)	1,782	1,722	-60	\$79,505	574	Adjustment reduction due to a decline in the number of grain elevators and mills from 19,791 to 19,121.
Training – 1910.272(e)(1)	0	0	0	\$0	0	No change.
Hot work permit -- 1910.272(f)(1)	19,791	19,121	-670	\$882,817	382,420	Adjustment decrease is a result of the decline in the number of grain elevators and mills.
Permit for entering bins, silos or tanks-- 1910.272(g)(1)(i) Deenergization of equipment -- 1910.272(g)(1)(ii)	472	441	-31	\$20,361	8,829	Adjustment decrease is a result of the decline in the number of grain elevators and mills.
	2,775	2,595	-180	\$119,811	51,900	
	1,133	1,060	-73	\$48,940	35,316	
	1,665	1,557	-108	\$71,887	51,900	

Information Collection Requirement	Current Burden Hours	Requested Burden Hours	Adjustment to Hours	Cost Under Item 12	Responses	Explanation of Adjustment
Contractors – 1910.272(i)(1) and 1910.272(i)(2)	4,206	4,063	-143	\$187,589	16,253	Adjustment decrease is a result of the decline in the number of grain elevators and mills.
Preventive maintenance inspections/certification record -- 1910.272(m)	5,998	5,609	-389	\$258,968	112,176	Adjustment decrease is a result of the decline in the number of grain elevators and mills.
	14,872	14,275	-597	\$659,077	285,504	
	11,875	11,473	-402	\$529,708	229,452	
	8,995	8,411	-584	\$388,336	168,228	
Disclosure of Certification Records	8	8	0	\$369	268	No change.
TOTALS	73,572	70,355	-3,217	\$3,247,368	1,342,820	