

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
STANDARD ON WALKING AND WORKING SURFACES
(29 CFR PART 1910, SUBPART D)¹
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0199
(January 2010)**

JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The main objective of the Occupational Safety and Health Act of 1970 (i.e., “the Act”) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the Act authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651).

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

With regard to recordkeeping, the Act specifies that “[e]ach employer shall make, keep and preserve, and make available to the Secretary . . . such records . . . as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . .” (29 U.S.C. 657). The Act states further that “[t]he Secretary . . . shall prescribe such rules and regulations as [he/she] may deem necessary to carry out [his/her] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” (29 U.S.C. 657).

¹The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with 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.

Under the authority granted by the Act, the Occupational Safety and Health Administration (i.e., “OSHA” or “the Agency”) published at 29 CFR part 1910, subpart D, a standard for general industry titled “Walking and Working Surfaces” (i.e., “the Standard”). Items 2 and 12 below describe in detail the specific information collection requirements of the Standard.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The collections of information contained in the Walking and Working Surfaces Standard are necessary to protect workers from the collapse of overloaded floors, outrigger scaffolds, and the failure of defective portable metal ladders.

Paragraph 1910.22(d)(1) requires that in every building or other structure, or part thereof, used for mercantile, business, industrial, or storage purposes, the loads approved by the building official shall be marked on plates of approved design which shall be supplied and securely affixed by the owner of the building, or his duly authorized agent, in a conspicuous place in each space to which they relate. Such plates shall not be removed or defaced but, if lost, removed, or defaced, shall be replaced by the owner or his agent.

Under paragraph 1910.26(c)(2)(vii), portable metal ladders having defects are to be marked and taken out of service until repaired by either the maintenance department or the manufacturer.

Paragraph 1910.28(e)(3) specifies that unless outrigger scaffolds are designed by a licensed professional engineer, they shall be constructed and erected in accordance with table D-16 of this section. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.

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 automated, electronic, mechanical, or other technological information-collection techniques, or other forms of information technology (e.g., electronic submission of responses), when establishing and maintaining the required records. The Agency wrote the paperwork requirements of the Standard in performance-oriented language (i.e., in terms of what data to collect, not how to record the data).

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

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

5. If the collection of information impacts small businesses or other small entities, describe the methods used to reduce the 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 or is not conducted less frequently, as well as any technical or legal obstacles to reducing the burden.

The Agency believes that the information collection frequencies required by the Standard 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 by the Act at 29 U.S.C. 651.

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

No special circumstances exist that require employers to collect information using the procedures specified by this item. The requirements are within the guidelines set forth in 5 CFR 1320.5.

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

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 three 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 October 29, 2009 (74 FR 55858, Docket No. OSHA-2009-0033) requesting public comment on its proposal to extend the Office of Management and Budget's approval of the information collection requirements contained in the Standard on Walking and Working Surfaces (29 CFR part 1910, subpart D). 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 payments or gift to respondents, other than reenumeration of contractors or grantees.

The Agency will not provide payments or gifts to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The paperwork requirements specified by the Standard do not involve confidential information.

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

None of the provisions in the Standard require sensitive information.

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

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

Burden-Hour and Cost Determinations

Using U.S. Census Bureau, Statistics of U.S. Businesses, 2006, Bureau of Labor Statistics, *Occupational Employment Statistics, 2008*, OSHA estimates that there are 6.7 million establishments and 112 million affected workers. The Agency assumes, on average, that there is one portable metal ladder for each establishment.

Data from the Census Bureau indicates that there is a 12.4 percent annual turnover rate of establishments in the private sector.² The Agency estimates that 830,800 new places of employment are constructed each year. Of these 830,800 new places of employment, OSHA estimates that only five percent (41,540) are non-commercial (e.g., manufacturing, etc.).

With respect to the wage and fringe benefit rate data for the one occupational category involved in the information collection requirements described below (i.e., average production worker), the hourly wage rate and benefits data were taken from *Employer Costs for Employee Compensation—June 2008*, Bureau of Labor Statistics, United States Department of Labor, *Occupational Employment Statistics, June 2008*.

- Average Production Worker \$22.89

(A) § 1910.22(d)(1) -- Load Limit Marking

OSHA estimates that approximately 80 percent of non-commercial places of employment (33,232) would already be required by local building officials to post floor loading limit signs even if OSHA did not have the requirement to do so. This would leave 8,308 new places of employment that would need these signs to meet OSHA requirements. In addition, while the Standard requires that plates be securely affixed, the Agency recognizes that, on rare occasions, some of the signs which have already been posted may need to be reposted if they are lost, removed or defaced. OSHA has no information on the number of signs which may have to be replaced. Therefore, for purposes of this ICR, the Agency estimates that approximately 100 places of employment may have signs that become lost, removed or defaced requiring the owner to have to repost the signs. OSHA estimates that it will take 20 minutes (.33 hr.) for an average production worker to acquire a replacement sign and to post it.

Burden hours: (8,308 + 100) x .33 hour = 2,775 hours

Cost: 2,775 hours x \$22.89 = \$63,520

² Technically, this is referred to as the “birth” rate of establishments. *2005-2006 Statistics of U.S. Business* dynamic data at <http://www.census.gov/csd/susbdyn.htm>.

(B) § 1910.26(c)(2)(vii) -- Marking of Portable Metal Ladders Having Defects

The Agency assumes, on average, each establishment has at least one portable metal ladder (6,700,000) and that when the ladder becomes defective most employers simply dispose of the ladder rather than repair it. OSHA estimates that only 3 percent of the ladders (201,000) will be defective and only a third (33%) of the defective ladders (67,000) will be marked with a tag and serviced by either the maintenance department or the manufacturer.

OSHA estimates that it would take three minutes (.05 hour) for an average production worker to mark a defective ladder.

Burden hours: 67,000 ladders x .05 hour = 3,350 hours

Cost: 3,350 hours x \$22.89 = \$76,682

(C) § 1910.28(e)(3) -- Maintaining and Disclosing Drawings and Specifications of Outrigger Scaffolds Designed by a Registered Professional Engineer

OSHA does not believe that outrigger scaffolds are used in general industry. Therefore, the Agency is assuming zero burden hours and costs for this provision.³

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

The estimates of the total annual cost burdens to respondents or record keepers resulting from this collection of information are included in Item 12.

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

OSHA estimates that a compliance officer (GS-12, step 5), at an hourly wage rate of \$40.66, spends about five minutes (.08 hour) during an inspection reviewing the documents required by the Standard. The Agency determines that its compliance officers will conduct about 1,056 inspections during each year covered by this ICR.⁴ OSHA 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 the Standard. Therefore, the annual total cost of these paperwork requirements to the Federal government is:

³ The Agency published a Notice of Proposed Rulemaking in 1990 (55 FR 13360) and then reopened the record in 2003 (68 FR 23528). Due to numerous comments, OSHA has re-proposed the rule for 29 CFR part 1910, subpart D. At this time, the Agency is considering removing this provision.

⁴ OSHA estimated the number of inspections by multiplying its inspection rate (1.4%) by the number of establishments covered by this ICR (75,408) (i.e., 75,408 establishments x 1.4% = 1,056 inspections).

Cost: 1,056 inspections x .08 hour x \$40.66 = \$3,435

15. Explain the reasons for any program changes or adjustments.

The Agency is requesting an adjustment increase of 4,932 burden hours (from 1,193 to 6,125). The increase in hours is due to an increase in the number of establishments from 10,000 to 41,540. See Table 1 below.

16. For collections of information whose results will be published, outline plans for tabulations, 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 of 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 inappropriate.

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

18. Explain each exception to the certification statement.

OSHA is not seeking an exception to the certification.

Table 1 -- Summary of Burden Hours and Cost

	Information Collection Requirement	Existing Burden Hours	Requested Burden Hours	Adjustments	Estimated Cost	Responses
1	§ 1910.22(d)(1) -- Load Limit Marking	693	2,775	2,082	\$63,520	8,408
2	§ 1910.26(c)(2)(vii) -- Marking of Portable Metal Ladders Having Defects	500	3,350	2,850	\$76,682	67,000
3	§ 1910.28(e)(3) -- Maintaining and Disclosing Drawings and Specifications of Outrigger Scaffolds Designed by a Registered Professional Engineer	0	0	0	0	0
	Total	1,193	6,125	4,932	\$140,202	75,408