

SUPPORTING STATEMENT FOR  
PAPERWORK REDUCTION ACT OF 1995 SUBMISSION ON  
OSHA DATA COLLECTION SYSTEM

**A. 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 Administration (OSHA) has a broad mandate to reduce injuries and illnesses in America's workplaces. OSHA has responded to this mandate by developing several programs, including promulgation and enforcement of standards, training/educational programs and cooperative programs. One purpose of the OSHA data initiative is to give OSHA the capability of focusing on those establishments with serious safety and health problems. Historically, OSHA targeted its compliance efforts towards entire industries. Industry data are extremely useful to OSHA for identifying categories of problems (e.g., specific industries and occupations at risk, etc.). However, targeting interventions towards entire industries is not the most efficient use of the Agency's resources. Aggregation of data by industry masks the experience of individual employers. In almost every industry a small percentage of the establishments experience disproportionately large numbers and/or high rates of injuries and illness. Data from relatively safe workplaces in high rate industries are lumped in with data from unsafe workplaces; and unsafe workplaces in relatively low rate industries avoid OSHA scrutiny altogether. Furthermore, studies have shown that the injury and illness experience for these establishments generally persists over time (particularly the larger ones). Establishments with high injury and illness rates tend to continue to have high rates.

The annual collection of employer specific injury and illness data improves OSHA's ability to identify and target agency interventions to those employers who have serious workplace problems. American business is composed of more than 7,500,000 workplaces. Federal OSHA and its State partners perform approximately 110,000 on-site visits per year. Since Federal OSHA and its State partners can only visit a small portion of America's workplaces, government resources could be used more effectively if OSHA uses employer specific data. Through the continued implementation of its annual Data Initiative, OSHA is able to leverage its resources. The result is a reduction in OSHA interventions in workplaces that are relatively safe and healthy, and the more effective use of OSHA's limited resources in more hazardous workplaces, the goal being improved workplace safety and health for America's workers.

Another purpose of the OSHA Data Initiative is to allow OSHA to comply with the Government Performance and Results Act (GPRA). Historically, the Agency has relied on activity measures such as number of inspections to evaluate itself and the State plan programs and has had no mechanism for evaluating the Agency's impact on reducing workplace injuries and illnesses in individual workplaces. Annual collection of employer specific injury and illness data allows the agency to monitor the results of its activities, evaluate its various programs based on program results, identify the most efficient and effective program mix, and promote the development of programs and policies based on outcome data.

Sections 8 and 24 of the Occupational Safety and Health Act, 29 U.S.C. 657, 673 (attachment 1) and reporting regulations at 29 CFR § 1904.41 (attachment 2) authorize OSHA to collect the requested information by mail. Establishments that fail to submit a completed survey form may be subject to OSHA enforcement actions, including the issuance of a citation and assessment of penalties.

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

The agency will collect occupational injury and illness data from selected employers. These employers will also be required to provide the average employment, hours worked, and the name and phone number of the person submitting the data. The data collection will include mail and telephone follow-up to ask clarifying questions concerning data submitted, and to attempt to obtain responses from non-responders.

The purpose of the data collection is to compile occupational injury and illness data from employers within

specific industries and size categories. OSHA then will be able to calculate occupational injury and illness rates by employer and specific industry. The agency will require this information from up to 120,000 employers required to create and maintain records pursuant to 29 CFR Part 1904.

In each of the previous OSHA Data Initiative (ODI) information collections, beginning with the collection of CY 1995 data, the Agency collected data from approximately 80,000 establishments each year. OSHA used the 1996 data from the 1997 collection as a baseline for both its Cooperative Compliance Program initiative and its Interim Plan for Inspection Targeting. The 1997 through 2007 injury and illness data have been used for OSHA's Site Specific Targeting (SST) plans. Each year the SST plan is updated with the most current data. The SST-09 plan is currently using CY 2007 establishment specific data.

Since 1998, OSHA has used the information from each data collection to identify approximately 14,000 establishments in Federal jurisdiction with high lost workday injury and illness case rates. OSHA sends letters to these establishments indicating its concern about the high injury and illness rate at the establishment and informing the employer of available services, such as the OSHA on-site consultation program, that can be used to identify hazards and address occupational safety and health issues.

The data collection has been limited to establishments with 40 or more employees. This limitation narrows the universe of establishments within scope of the collection to approximately 120,000 establishments. As a result, OSHA has interacted with the majority of establishments (through data collection, outreach, and enforcement activities) multiple times during the 12 years of the data collection. Analysis shows that these interactions have had the positive affect of reducing injuries and illness in these establishments. However, the Agency believes it can increase this affect by identifying and interacting with establishments it has not had a presence in to this point. OSHA is therefore requesting authority from OMB to expand the data collection to include establishments with 20 to 39 employees. This expansion would increase the ODI universe by approximately 80,000 establishments to 200,000 establishments. These establishments would then be available for selection during a given year's annual collection of up to 120,000 establishments.

OSHA is also considering a modification to the data collection for enterprises with multiple establishments. The agency proposes to identify the corporate headquarters of firms with a set number of establishments (e.g. firms with more than 5 establishments) and request Log summary data for all of the facilities of the enterprise that are required to maintain the OSHA Log and meet the establishment size and industry limitations of this data collection. This will give the Agency the ability to calculate enterprise-wide injury and illness rates as well as establishment specific rates. This additional information would give the Agency the ability to leverage its resources by interacting at the corporate level of large firms that have either high rates or large numbers of injuries and illnesses, whether corporate wide or at specific establishments. This would increase the potential of reducing large numbers of injuries and illnesses with a limited number of interventions. It should be noted that data supplied for each single establishment would be counted as a single response to the data collection in terms of question 13 of Form OMB 83i. For example, one enterprise that supplies data for 13 establishments will be counted as 13 responses to the survey.

Some states operating state plans pursuant to Section 18 of the OSH Act also use the information collected for the same purposes as does Federal OSHA.

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.

OSHA, along with its contractors, mails the data collection form to selected employers. Employers can return the completed forms by mail or fax. Alternatively, employers can provide the survey information to OSHA using a secure, interactive web site. Electronic reporting will reduce the burden on respondents, further streamline the data collection process, and minimize mailing and handling costs. The collection of 1997 data in the 1998 data collection was the first time this electronic filing option was available. Approximately 790 employers used the option (1% of the sample) that initial year. Each subsequent year, the number and percentage of respondents that use the electronic submission option has increased. For the collection of CY 2008 data, 77% of respondents filed

their data over the internet.

OSHA initiated a pilot as part of the 2008 collection to test an alternative notification process in the initial mailing to promote electronic submissions. Increasing electronic submissions potentially reduces respondent burden, streamlines the collection process, and saves money compared to a paper survey collection (e.g., reduces paper and postage fees, eliminates double data entry). The pilot collection goals were to determine the extent to which electronic submissions might be increased, while maintaining the same high data quality standards the ODI has consistently achieved. OSHA designed the 2008 ODI pilot collection to mirror recent changes implemented by the Bureau of Labor Statistics (BLS) for its annual Survey of Occupational Injuries and Illnesses. Using the BLS model as a guide for the pilot, OSHA developed a two-page notification requesting that employers receiving it submit data from their OSHA 300A, the Summary of Work-Related Injuries and Illnesses for calendar year 2007 via OSHA's Web site. A copy of the notification is provided in Attachment 4. The pilot collection included approximately 18,000 establishments in four states (Illinois, Florida, New Jersey, New York, and Tennessee) representing approximately 23% of the overall 2008 universe of selected establishments. Findings showed that 55% of establishments in the pilot states submitted their data electronically, compared to 26% of establishments in non-pilot states. Based on the findings of the pilot collection, OSHA implemented the new collection methodology nationwide for the 2009 ODI. As noted above, 77% of respondents submitted their CY 2008 data electronically.

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 to be obtained from this data collection is not available to OSHA from any other source. The OSHA Form No. 300 does not duplicate any existing federal documents. The BLS currently collects similar data from the establishments that are included in their Annual Survey of Occupational Injuries and Illnesses along with more detailed case information. About 4 percent of the establishments (about 4,000) sampled for the OSHA survey will also be identified for collection by BLS on an annual basis. However, due to the BLS pledge of confidentiality and protection from disclosure of establishment specific data under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), BLS is prohibited from sharing with OSHA the data collected from these over-lap establishments and is prohibited from informing OSHA of the establishments included in its annual survey. Note that OSHA Form 196A has been discontinued due to the timing differential between the OSHA and BLS data collections. Establishments included in both surveys are given the option of submitting a copy of their response to the BLS survey in lieu of completing the OSHA form.

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.

Employers with fewer than 11 employees are exempt from the recordkeeping requirements of 29 CFR Part 1904 unless they are pre-notified in writing that they must participate in either the BLS Annual Survey or the OSHA data collection. To date, the OSHA collections have not included any employer exempt because of its size. All establishments included in the data collection for a given year will have already been required to maintain the OSHA Log for the year being collected. Once selected for participation in OSHA's data collection, all employers have the same obligation to respond to the collection request.

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.

OSHA plans to collect log data from approximately 120,000 establishments. These data are critical to OSHA's outreach and enforcement targeting efforts and are essential for OSHA to be able to comply with GPRA requirements.

Collections less frequently than annually would, by definition, reduce the quantity of data that OSHA would have to use for the purposes described above. Additionally, the breadth of the data would also be reduced. OSHA changes the universe of employers that it collects from every year. So, if data were collected less frequently than annually, OSHA would have data from fewer employers, not simply less data from the same employers. This would severely reduce OSHA's ability to identify those establishments with the highest rates of occupations injuries

and illnesses. [It should be noted that the burden on individual employers already is reduced because OSHA changes the universe for the collection every year. Thus, any given employer is not that likely to be included in the data collection in consecutive years].

Collecting the data less frequently than annually would also result in practical administrative difficulties. The infrastructure (including staffing) of the collection system would be difficult to maintain if the data are not collected annually. This is especially true for the state collecting agencies which have staff that are trained and spend full time working on various aspects of this data collection. Collection less frequently would result in the need to reassign people or terminate the employment of key personnel. The cumulative institutional knowledge that the state personnel develop from collecting the data each year would be lost, affecting the quality and timeliness of the data. Also, there would be costs for biannual startup and shutdown and personnel training that would offset much of the expected cost savings.

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.

In some circumstances the information recorded in compliance with Part 1904 may contain confidential information. For example, the employment and hours worked data required as part of the data collection potentially could be considered confidential commercial information. OSHA considers such information to be potentially confidential, and, as appropriate, follows the procedures set forth in 29 CFR 70.26, which require OSHA to contact the employer which submitted the information prior to any potential release under the Freedom of Information Act, 5 U.S.C. § 552(b)(4). Additionally, Section 15 of the OSH Act protects the confidentiality of trade secrets. 29 U.S.C. § 664. See also 18 U.S.C. § 1905. OSHA has released establishment specific injury and illness rates calculated from the data collection in response to multiple FOIA requests. The most current ODI injury and illness rates are posted on OSHA's E-FOIA web page at <https://www.osha.gov/as/opa/foia/foia-111609.html>.

8. If applicable, provide a copy and identify the data 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.

OSHA published a request for comment on the proposed ICR in the September 4, 2009 Federal Register (See Attachment 5). One set of comments was submitted in response to the request for comment by the Workers United/SEIU (see Attachment 6). In general, the comments were supportive of the data collection. Workers United's specific comments are summarized and addressed below.

Comment 1: Workers United/SEIU believes that the current threshold of establishments with 40 or more employees for inclusion in the ODI is insufficient. The commenter urges that the threshold be lowered further, to 20 or even 10 employees.

OSHA's Response: OSHA agrees with the comment and requests authority to include establishments with 20 or more employees in the data collection. As discussed in question 2 above, the Agency believes it can increase its ability to reduce injuries and illnesses by identifying and interacting with establishments it has not had a presence in to this point. This expansion would increase the ODI universe by approximately 80,000 establishments to 200,000 establishments. These establishments would then be available for selection during a given year's annual collection of up to 120,000 establishments.

Comment 2: Workers United/SEIU strongly supports the proposed expansion of the Data Initiative to cover larger multi-site employers. However, the commenter also believes that the threshold of 10 such establishments is unnecessarily high. The commenter therefore recommends that OSHA request the establishment and corporate-wide data from companies with a lower number of establishments (e.g. five or more establishments), provided that they have a significantly large number of employees (e.g. 500 employees).

OSHA's Response: OSHA agrees with the comment. It should be noted that this is only a variance in the methodology of the data collection. It is neither a change in the type of data collected nor a change in the group of establishments that data will be collected from. This change in methodology will not have an affect on the burden hour estimates for this ICR.

Comment 3: Workers United/SEIU requests information on the current targeting practices of state plans -- both those which participate in the ODI as well as those which do not participate in the ODI collection. For those which use the ODI data, the commenter requests a description of how each of these states actually implements its ODI-related targeting (understanding that these states, like Federal OSHA, may also have other targeting practices which do not rely on ODI data).

OSHA's Response: OSHA will respond to this comment outside the ICR process. This comment pertains to OSHA policy outside the scope of the data collection.

Comment 4: Workers United/SEIU encourages OSHA to increase the number of employers from which it collects these data, since OSHA already defines the universe of employers larger than that for which OSHA has the allotted budget to actually collect the data itself. In addition, the commenter recommends that OSHA implement the permanent electronic submission process with the capability to add additional questions.

OSHA's Response: OSHA agrees with this comment. While OSHA has had the authority to collect the data from 100,000 respondents, the Agency has dedicated resources to collect data from 80,000 respondents per year. (It should be noted that ARRA funding was made available for the current year's data collection and 100,000 respondents were included in the 2009 ODI). Due to the possibility of additional funding, OSHA is increasing its request for authority to collect data from 120,000 respondents.

In regards to including additional questions, 29 CFR Part 1904.41 sets forth the scope of the data OSHA can collect through the ODI process. The data are limited to that which is required under Part 1904. If OSHA desires to collect information outside the scope of Part 1904, it will submit to OMB a supplemental request to add questions to the

data collection and will indicate that response to the additional questions is not mandatory. (It should be noted that this process was used to add an ARRA related question to the 2009 ODI collection.)

Comment 5: Workers United/SEIU believes that all employers in OSHA's definitions of covered establishments in this universe should be contacted annually – rather than less frequently, as is currently required by the limitations in OSHA's budget.

OSHA's Response: OSHA will continue to collect data from the number of respondents within the limits of its budget. It should be noted that OSHA is requesting authority to increase the number of respondents to 120,000 (from the current 100,000).

Comment 6: Workers United/SEIU requests that OSHA clarify the public availability of these data. We further request that OSHA routinely make these data available with a search capability on its website.

OSHA's Response: OSHA agrees with the comment and has modified its responses to questions 7 and 10 of this ICR.

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.

Respondents will not receive any payments or gifts.

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

Information about the occurrence of occupational illness and injury, the number of employees and the number of hours worked at a particular worksite might be subject to disclosure under the Freedom of Information Act (FOIA). Therefore, information collected by OSHA's Data Collection Initiative may be subject to disclosure in whole or in part at the establishment level or in aggregate form. OSHA has released establishment specific injury and illness rates calculated from the data collection in response to multiple FOIA requests. The most current ODI injury and illness rates are posted on OSHA's E-FOIA web page at <https://www.osha.gov/as/opa/foia/foia-111609.html>.

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.

This data collection includes no questions of a sensitive nature.

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.

All employers selected have maintained, for the year, forms OSHA Form 300, Log of Work-Related Injuries and Illnesses, OSHA Form 300A, Summary of Work-Related Injuries and Illnesses, and OSHA Form 301, Injury and Illness Incident Report. (The OSHA Forms 300, 300A, and 301 are cleared under OMB No. 1218-0176). Completion of the injury and illness summary portion of OSHA Form 196B simply requires copying data from the employer's completed OSHA Form 300A. OSHA estimates it will take an average of 10 minutes to review the instructions and copy data from the OSHA Form 300A to the collection form.

Cite/ Reference	Total Respondents	Frequency	Total Responses	Average Time per Response	Burden
OSHA Form 196	120,000	Annually	120,000	10 minutes	20,000 hours

- 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.

Respondent cost is estimated at \$489,600 based on a wage and benefits of \$24.48 an hour (20,000 \* \$24.48=\$489,600). To estimate the costs that would result from the transfer of data to the OSHA data collection form 196B, OSHA assumed that this work would be conducted by someone with the skill level of a Human Resources Assistant (OES code 43-4161).

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 services 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 respondents (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 of:

(a) Total capital and start-up cost component (annualized over its expected useful life) is \$0.

(b) Total operation and maintenance and purchase of services component is \$0.

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 total cost to the Federal government for collecting the data will be approximately \$3.0 million.

Grants to States for Data Collection	\$2.3 million
Contractor Support (Establishment list; software development and support; collection monitoring; quality analysis; data editing; data distribution)	\$0.7 million
Total	\$3.0 million

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

The current inventory included 1,000 hours for asking a specific question relating to construction firms working on ARRA funded construction projects. This question is specific to the collection of CY 2008 data only and is not included in future collects. 3,333 additional hours are requested for expansion of the collection from 100,000 responses to 120,000 responses (17,667 -1,000 + 3,333 = 20,000 hours). Due to rounding, there is a one hour difference between the existing supporting statement (16,667 hours) and the entry in the ROCIS (16,666 hours).

Note that OSHA Form 196A has been discontinued due to the timing differential between the OSHA and BLS data collections. Establishments included in both surveys are given the option of submitting a copy of their response to the BLS survey in lieu of completing the OSHA form.

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 of information, completion of report, publication dates, and other actions.

The establishment specific data collected will not be published. However, as noted in questions 7 and 10, the calculated injury and illness rates are posted on OSHA's E-FOIA web page. The results of the data collection will be used by the Department to focus OSHA's resources toward the worst safety and health hazards, to measure the performance of the Agency in meeting its goal of reducing workplace injuries and illnesses and to track and assess the Agency's effectiveness as required by GPRA.

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.

The agency is not seeking approval not to display the expiration data for OMB approval of the information collection.

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

There are no exceptions to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

#### B. Collection Methods

This collection does not employ statistical methods.



The Attachments have been entered into ROCIS in the following sections:

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- Attachment 1 - Occupational Safety and Health Act of 1970 (Supplementary Section)
- Attachment 2 - Title 29 CFR Part 1904 (Supplementary Section)
- Attachment 3 - OSHA Form 196B (Information Collection (IC) Section)
- Attachment 4 - OSHA Form 196B – Notification (IC Section)
- Attachment 5 - Request for Comment – Sixty day Preclearance Notice (Supplementary Section)
- Attachment 6 - Public Comments – (Public Comment Section)
- Attachment 7 - Analysis of Recordkeeping Audits of CY 2006 data. (Supplementary Section).