

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
AERIAL LIFTS STANDARD (29 CFR 1926.453)¹
OFFICE OF MANAGEMENT AND BUDGET (OMB)
Control No. 1218-0216 (April 2010)**

JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements 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 (OSH Act) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, 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 the Aerial Lifts Standard, “the Standard” at 29 CFR 1926.453 to protect employees who operate, or work near, aerial lifts. Items 2 and 12 below list and describe the specific information collection requirement of this 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 only information collection requirement in the Aerial Lifts Standard is a certification provision, paragraph (a)(2). This provision requires an employer who field modifies an aerial lift for a use not intended by the lift manufacturer (“field modified aerial lift”) to obtain from that manufacturer, or an equivalent entity (such as a nationally-recognized laboratory), a written certificate stating that: The modification conforms to the applicable provisions of ANSI A92.2-1969 and OSHA’s Aerial Lifts Standard; and the modified aerial lift is at least as safe as it was before modification.

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

Employers use the certification required in paragraph (a)(2) of the Standard as a record of equipment modification and to demonstrate to interested parties (e.g., OSHA compliance officers, renters, lessees, owners, workers) that the modified aerial lift remains at least as safe for employees, as the original equipment. Additionally, the certification provides the best means by which an OSHA compliance officer can determine that the manufacturer or an equally-qualified entity assessed a field modified aerial lift and found that it was safe for use by, or near, employees, and would provide employees with a level of protection at least equivalent to the protection afforded by the lift in its original configuration. Finally, workers may review the information on the certificate; such a review will provide them with information that they can use to determine the safety of the modified lifts.

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 certification record. OSHA wrote the paperwork requirements of the Standard in performance-oriented language, i.e., in terms of what data to collect, not how to collect 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 A.2 above.

The requirement to collect and maintain information is specific to each employer and worker involved, and no other source or agency duplicates the requirement 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 any methods used to minimize burden.

The information collection requirement contained in this Standard does 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.

Employers must have the manufacturer or an equally-qualified entity certify each modification made to an aerial lift only once. OSHA believes that this frequency is necessary to ensure that modified lifts remain at least as safe as they were in their original configurations.

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, described in 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 24, 2010 (75 FR 8406, Docket No. OSHA-2009-0045) requesting public comment on its proposed extension of the information

collection requirements contained in the Standard on Aerial Lifts (29 CFR 1926.453). 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 three comments on its notice.

The first commenter, the Washington State Department of Transportation (WSDOT), concurred with OSHA's proposal to extend the certification requirement specified in the Aerial Lift Standard "as it demonstrates that the manufacturer or an equally-qualified entity has assessed a modified aerial lift for use by workers." The second commenter, JLG Industries, Inc., stated that should OSHA seek to adopt a regulation covering the topic of aerial lifts, the Agency should propose that "... the regulation track the actual language of the applicable Owner Modification Section of the A92 Standards...." The third commenter, the International Powered Access Federation (IPAF), "...strongly supported the collection requirement for the certification requirement that the manufacturer or equally qualified entity, has assessed a modification to an aerial work platform and determined it to be safe for use."

First, OSHA appreciates that all three commenters approve of the requirement in the Aerial Lifts Standard that modifications to aerial lifts be approved and certified in writing by the manufacturer. Second, the Agency wishes to express upon JLG Industries, Inc., that OSHA currently has, in its Code of Federal Regulations at 29 CFR 1926.453, a standard on aerial lifts which specifies that any modifications made to aerial lifts conforms to the applicable provisions of ANSI A92.2-1969.

Neither, WSDOT, JLG Industries, Inc., nor IPAF commented on the Agency's burden hour assumptions; therefore, OSHA will retain its estimate of six burden hours associated with the information collection requirement in the Standard.

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 requirement specified in this Standard does 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 requirement specified in this Standard does 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.**

- **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 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

A. Number of aerial lifts

The Agency estimates that the number of aerial lifts regulated by 1926.453(a)(2) at some time during calendar 2005 ranged between 96,800 and 108,000. This range was reached by using and estimating numbers from the Bureau of Census annual reports of construction machinery shipped within the United States, by factoring in an industry accepted maximum service life of 6 years (derived anecdotally) and by estimating distribution between construction (80%) and other industries (20%).

OSHA consulted Bureau of Census Manufacturing Profiles (BCMF) for the years 1993–2005 and; in particular, looked at data for aerial work platforms, boom type self-propelled for 2000–2005. From these data, the Agency derived a total population in the United States of 121,000 aerial lifts or 96,800 for construction ($80\% \times 121,000 = 96,800$). The Industry sources estimated anecdotally about 135,000 aerial lifts or 108,000 for construction ($80\% \times 135,000 = 108,000$). These data produce a construction boom type aerial lift population range of 96,800–108,000 for 2005.

The Agency also referred to the July-August 2006 edition of “Access International,” an industry publication, which surveys aerial lift fleets world wide. The article, “Continental Divide,” on pages 15-23 estimated that in 2005, rental companies with headquarters in the United States had combined scissor and boom type aerial lift fleets totaling 181,000 units and for 2006 totaling 192,000. These fleet totals include domestically owned scissor lifts and boom type aerial lifts which are not regulated by 1926.453(a)(2), including machines operated in Canada, France and Mexico. It is not unreasonable to estimate that Access International’s survey totals minus the number of machines operated outside 1926.453(a)(2)’s scope (for example those under 1910 and

1915 as well as those operated by sole proprietors) in the United States and minus the number of machines operated outside the country produce results, which when divided between scissors lifts and boom type aerial lifts, corroborates the BCMF and anecdotal industry range. In addition, the large rental company fleet numbers suggest that the bulk of boom type lifts operated in the United States are lease/rental machines. Thus, the number of boom type lifts field modified by employers within the scope of 1926.453(a)(2) (i.e., for uses not intended by manufacturers) is quite low. The Agency postulates, and is supported anecdotally by the industry, that the low modification number is due to lease/rental contracts, policies, practices and insurance concerns, as well as increasing machine sophistication.

OSHA also estimates, due to the increased sophistication of newer boom type lifts, which not only extend basket reach and payload, but increase the maneuverability of lift, boom, and basket, as well as due to industry anecdotal comments, that the number of field modified aerial lifts has declined to nearly none.

Considering the number of machines being leased/rented, the sophistication of the machines and lease/rental contracts, policies, practices and insurance, as well as considering anecdotal comments received, the Agency estimates that, in a given year, 1% (1 percent) of the machines are field modified by employers for uses other than those intended by manufacturers. Therefore, the number of field modified aerial lifts in 2005 ranged approximately from 970 to 1,080 machines or 1,025 machines, taking the average of the range.

OSHA believes that compiling and maintaining the equipment-modification certificates is a usual and customary business practice performed by employers for equipment maintenance, contractual, rental, leasing, insurance and liability purposes. Therefore, OSHA is not calculating a paperwork burden for this requirement; however, OSHA is calculating a burden for disclosure of the written certification to OSHA compliance officers during inspections.

B. Number of Inspections

To determine the burden hours, the Agency had to determine how many times OSHA might ask employers using field modified aerial lifts to disclose their modification certifications pursuant to 1926.453 inspections. OSHA has no data on the number of inspections where OSHA will request employers to disclose their field modified aerial lift certifications. Therefore, to determine the number of inspections where certification disclosure requests would occur, the Agency determined the yearly average number of construction inspections and divided that number by the yearly average number of construction employers. Both averages are derived from the latest data available, OSHA inspection data for FY 1995-2005 and Census Bureau, County Business Pattern employer data for FY 1995-2004.

From October 1, 1995 through September 30, 2005, Agency data show 456,512 construction inspections nationwide. This number gives an annual average of 45,651 construction inspections. From October 1, 1995 through September 30, 2004 County Business Pattern data counts 6,960,000 construction employers nationwide yielding an annual average of 773,333

construction employers. Thus, approximately 6% of construction employers are likely to be inspected in one year. Applying this percentage to the yearly average population of modified aerial lifts, OSHA calculates approximately 62 field modified aerial lifts will be subjected to inspection annually (6% x 1,025 field modified aerial lifts yields 62).

OSHA notes that this is likely an overestimation given the nationwide number of 1926.453(a)(2) citations recorded from October 1, 1995, through September 30, 2005. OSHA's database shows 142 citations nationwide over the 10-year span or approximately 14 per year. OSHA's Integrated Management Information System (IMIS) does not give the Agency the ability to determine how many of the projected field modified aerial lifts compliance officers see in a given year or of that number how many sightings produced a 1926.453(a)(2) records request, i.e., there are not IMIS records if the employer is in compliance with section 1926.453(a)(2). However, the citation number and rate suggest that the Agency inspects very few machines subject to 1926.453(a)(2). Consequently the Agency estimates the burden hour costs are extremely low to the industry.

OSHA estimates that a construction worker, earning on average \$29.75 in total compensation an hour², spends about 6 minutes (.1 hour) retrieving, copying and providing to the Agency each certificate during an OSHA inspection, which results in a total annual regulatory burden to employers of:

Burden hours: 62 lift inspections x .1 hour = 6 hours

Cost: 6 hours x \$29.75 = \$179

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 item 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.**

² The average hourly rate data for a construction worker, including benefits, are taken from the Employer Costs for Employee Compensation—June 2009, from Table No.11: News Release, Bureau of Labor Statistics.

- **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.**

Item 12 lists the total cost to employers of complying with the certification requirement specified in this standard.

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), 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 into single table.

The Agency estimates that a compliance officer (GS-12/5), at an hourly wage rate of \$40.66 spends 5 minutes (.08 hour) during each inspection reviewing records maintained by employers covered by the Standard. OSHA will inspect about 62 or fewer of these field modified lifts annually. 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 requirement specified in the Standard.

Cost: 62 inspections x .08 hour x \$40.66 = \$202

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

There is no adjustment increase or decrease associated with this Information Collection Request.

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 the report, publication dates, and other actions.

OSHA will not publish the information collected under this 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 statement.