

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS CONTAINED IN
THE WALKING-WORKING SURFACES STANDARD
(29 CFR PART 1910, SUBPART D)**

Contains revisions specified in the Notice of Proposed Rulemaking for Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems)

RIN: 1218-AB80

OMB Control Number: 1218-0199

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).

Under the authority granted by the OSH Act, the Occupational Safety and Health Administration (“OSHA” or “the Agency”) is publishing a single proposal to revise both the Walking-Working Surfaces standards for general industry (29 CFR 1910, subpart D) and the Personal Protective Equipment (29 CFR 1910, subpart I) standards for general industry. OMB approved the

collections of information contained in existing subpart D under OMB Control Number 1218-0199; this information collection request (ICR) revises the existing ICR for subpart D. OSHA is submitting to OMB a separate ICR for proposed revisions to the collections of information contained in subpart I.

The proposed revisions to subpart D will update the standards that regulate walking and working surfaces. Updating subpart D to reflect current practices and technology will reduce the rate of deaths and injuries. Items 2 and 12 below describe the specific information collection requirements affected by the proposed subpart D rulemaking.¹

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.

Proposed New Collections of Information:

The proposed subpart D rulemaking has two provisions that contain collections of information. These collections of information are necessary to protect workers from defective ladders and from falling into repair, service, and assembly pits. The two provisions are:

- **Proposed §1910.23(b)(10) (Ladders—General requirements for all ladders).**

Proposed §1910.23(b)(10) would require “ladders with structural or other defects must immediately be tagged ‘Do Not Use’ or with similar language . . . and be removed from service until repaired . . . , or replaced.

- **Proposed §1910.28(b)(8)(iii) (Duty to have fall protection—Repair, service, and assembly pits less than 10 feet in depth).**

Proposed §1910.28(b)(8)(iii) would require “[c]aution signs stating ‘Caution—Open Floor,’ or a similar legend, [be] posted so that they are readily visible to employees entering the pit area.”

Proposal to Remove the Following Paragraphs:

The proposed revisions to subpart D would result in removing three provisions that contain collections of information from existing subpart D. The three provisions are:

- **Existing §1910.22(d)(1) (General requirements—Floor loading protection).**

Existing §1910.22(d)(1) requires that “[i]n 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

¹The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with the proposed revisions to the information collection requirements in existing subpart D; this Supporting Statement does not provide information or guidance on how to comply with, or how to enforce, the standards.

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.”

Proposed §1910.22(b) would set requirements for application of loads, with proposed paragraphs (b)(1) and (b)(2) requiring, respectively, that employers “ensure that walking-working surfaces are . . . [d]esigned, constructed, and maintained to support their maximum intended load” and “[are] [n]ot loaded beyond their maximum intended load.” The proposed paragraphs do not contain the collections of information found in existing paragraph (d)(1). OSHA believes the proposed language provides adequate protection to workers without the added burden on employers of gathering and posting information.

• **Existing §1910.26(c)(2)(vii) (Portable metal ladders—Care of ladders).**

Under existing §1910.26(c)(2)(vii), employers must mark, and take out of service until repaired by either the maintenance department or the manufacturer, portable metal ladders having defects. Proposed §1910.23(b)(10) (Ladders—General Requirements for all Ladders) would replace §1910.26(c)(2)(vii) by requiring employers to tag and remove defective portable metal ladders (see above discussion of proposed §1910.23(b)(10)).

• **Existing §1910.28(e)(3) (Safety requirements for scaffolding—Outrigger scaffolds).**

Existing §1910.28(e)(3) specifies that “[u]nless 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.” Proposed paragraph 1910.27(a) would require that scaffolds used in general industry meet the requirements for scaffolds in the construction standards at 29 CFR 1926. The construction standards do not specify that employers maintain copies of drawings and specifications on the job, and employers do not use outrigger scaffolds in general industry. Therefore, the information collection requirement specified by existing §1910.28(e)(3) would be unnecessary.

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.

While marking defective ladders and repair, service, and assembly pit areas would likely involve the use of paper or tape products, employers may use automated, electronic, mechanical, or other technology to mark ladders and pit areas.

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 Item 2 above.

The proposed 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 any methods used to minimize burden.

The information collection requirements specified by the proposed revisions to subpart D do not have a significant impact on a substantial number of small entities.

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

The Agency believes that the information collection frequencies required by the proposed revisions to subpart D are the minimum frequencies necessary to effectively prevent employee exposure to hazards and, thereby, 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 OSH 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 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 secrets, 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 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 prior to 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 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that preclude consultation in a specific situation. These circumstances should be explained.

In accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(B), 5 CFR 1320.5, 29 CFR 1320.8(d)(3), and 5 CFR 1320.11), OSHA is submitting revisions to the Walking-Working Surfaces (29 CFR part 1910, subpart D) ICR (OMB Control Number 1218-0199) to OMB for review.

In 1990, OSHA proposed a rule (55 FR 13360) addressing slip, trip, and fall hazards, and establishing requirements for personal fall-protection systems. Since that time, new technologies and procedures have become available to protect employees from these hazards, and the Agency is working to update these rules to reflect current technology. In 2003, OSHA published a notice soliciting comment on a number of issues raised in the record for the 1990 proposal (68 FR 23528). As a result of the comments received on that notice, OSHA determined that the rule proposed in 1990 was out of date and did not reflect current industry practice or technology. The Agency is publishing this new proposal to reflect current information.

Members of the public who wish to comment on the paperwork requirements in this proposal must send their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218-AB80), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to also submit their comments on these paperwork requirements to the rulemaking docket (Docket Number OSHA-2007-0072), along with their comments on other parts of the proposed rule. Comments submitted in response to this notice are public records; therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth.

9. Explain any decision to provide any payments or gift to respondents, other than remuneration 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 proposed revisions to subpart D 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 proposed revisions to subpart D 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 13.**

The following sections summarize the burden hour and cost determinations for the information collection requirements specified by the proposed revisions to subpart D. The data for these determinations is based on the preliminary economic analysis (PEA) prepared for the proposed revisions to subpart D, and OSHA's estimate of the time it would take a worker who is required to perform the necessary procedures.²

OSHA will be removing the following sections from the existing subpart D:

- §1910.22(d)(1) -- General Requirements -- Floor Loading Protection.
- §1910.26(c)(2)(viii) -- Portable Metal Ladders -- Care of Ladders.
- §1910.28(e)(3) -- Safety Requirements for Scaffolding.

Burden Hour and Cost Determinations:

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

According to the U.S. Census' *Statistics of U.S. Businesses, 2006*, there are 6.7 million establishments and 112 million workers that fall under the scope of the proposed revisions to subpart D. An estimated 27.6 million workers are employed in production occupations.

²These determinations do not include the provisions of existing subpart D that contain information collections because these provisions would be removed under the proposal (see Table 1 below for details).

• **§1910.23(b)(10) (Ladders—General requirements for all ladders).**

The Agency assumes that, on average, each establishment has at least three ladders (20,100,000 ladders), and that when a ladder becomes defective, most employers will simply dispose of the ladder rather than repair it. OSHA estimates that only 3 percent of the ladders (603,000) (20,100,000 x 3%) will be defective, and most of those ladders will be tagged “Do Not Use.”

The Agency estimates that only 10 percent (60,300) of the 603,000 ladders will be tagged with a sign that contains language other than “Do Not Use.”³ The Agency assumes that it will take 3 minutes (.05 hours) for a worker to construct a sign using other language, and to tag a ladder with the sign.

Burden hours: 60,300 ladders x .05 hours = 3,015 hours
Cost: 3,015 hours x \$22.89 = \$69,013

• **§1910.28(b)(8)(iii) (Duty to have fall protection—Repair, service, and assembly pits less than 10 feet in depth).**

OSHA estimates that only 1 percent (67,000) of the 6.7 million establishments will have to post caution signs over pit areas, and that only 3 percent (2,010) of those signs will contain language other than “Caution--Open Floor.”⁴ The Agency assumes that it will take 3 minutes (.05 hours) for a worker to construct a sign using other language, and to post the sign in the pit area.

Burden hours: 2,010 signs x .05 hours = 101 hours
Cost: 101 hours x \$22.89 = \$2,312

13. Provide an estimate for 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 collections services should be a part of this cost burden estimate. In developing cost burden**

³The definition of “collection of information” under PRA-95 excludes information provided by the Government to a respondent. Therefore, the Agency is taking no burden hours or costs for those employers who use the language “Do Not Use” for signs designating defective ladders.

⁴The definition of a “collection of information” under PRA-95 excludes information provided by the Government to a respondent. Therefore, the Agency is taking no burden hours or costs for those employers who use the language “Caution—Open Floor” for signs demarcating repair, service, and assembly pits.

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.

All costs under this item for complying with the existing and proposed collection of information requirements under subpart D are included under those costs 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), and any other expense that would not have been incurred without this collection of information. Agencies may also 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 \$32.73,⁵ would spend about five minutes (.08 hour) during an inspection checking for the signs specified in this ICR. The Agency determined that its compliance officers will inspect about 844 firms/employers during each year covered by this ICR.⁶ 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 this ICR. Therefore, the total cost of these paperwork requirements to the Federal government would be:

$$\text{Cost: } 844 \text{ inspections} \times .08 \text{ hour} \times \$32.73 = \$2,210$$

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

The proposed revisions to subpart D would result in a program change decrease of 3,009 hours, i.e., from 6,125 hours to 3,116 hours. Table 1 below describes each of the requested program changes.

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.

OSHA will not publish the information collected under the proposed revisions to subpart D.

⁵The Agency used the 2010 General Schedule to obtain the hourly rate of base pay for a compliance officer. (See http://www.opm.gov/oca/10tables/html/g_s_h.asp).

⁶The Agency estimated the number of inspections by determining the inspection rate (1.4%) for all establishments under the jurisdiction of the Act (including both Federal OSHA and approved state-plan agencies), and then multiplying the total number of firms/employers that would be affected by the proposed standard by this percentage (i.e., 60,300 establishments x 1.4% = 844 inspections).

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.

TABLE 1
Subpart D – Walking-Working Surfaces for General Industry
Proposed Burden Hour Chart

	Information Collection Requirements	Current Burden Hours	Revised Burden Hours	Program Change	Cost Under Item 12	Responses	Rationale for Program Change
1	Proposed §1910.22(b)(10)—Ladders with structural or other defects must immediately be tagged "Do Not Use" or with similar language in accordance with §1910.145 and must be removed from service until repaired in accordance with §1910.22(d), or replaced.	0	3,015	3,015	\$69,013	60,300	This proposed revision to subpart D would replace the existing paragraph 1910.26(c)(2)(vii) requirement for marking and removing defective metal ladders; it would prevent workers from using defective ladders.
2	Proposed §1910.28(b)(8)(iii)—Caution signs stating, "Caution—Open Floor," or a similar legend, are posted so that they are readily visible to employees entering the pit area. Note: Caution signs must meet the requirements of §1910.145.	0	101	101	\$2,312	2,010	This proposed revision to subpart D is a new requirement; it would protect workers from the fall hazards associated with repair, service, and assembly pits.
3	Existing §1910.22(d)(1)—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 lost, removed, or	2,775	0	-2,775	0	0	Proposed §1910.22(b)(1) and (b)(3) would remove the requirement for marking loads on plates of approved design.

	Information Collection Requirements	Current Burden Hours	Revised Burden Hours	Program Change	Cost Under Item 12	Responses	Rationale for Program Change
	defaced, shall be replaced by the owner or his agent.						
4	Existing §1910.26(c)(2)(vii)—Ladders having defects are to be marked and taken out of service until repaired by either the maintenance department or the manufacturer.	3,350	0	-3,350	0	0	This provision would be included in proposed §1910.22(b)(10).
5	Existing §1910.28(e)(3)—Unless outrigger scaffolds are designed by a licensed professional engineer, they shall be constructed and erected in accordance with table D-16. Outrigger scaffolds designed by a registered professional engineer shall be constructed and erected in accordance with such design. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.	0	0	0	0	0	The proposed revision to subpart D at §1910.27(a) requires employers to comply with the scaffold standards in construction at 29 CFR 1926. The construction standards do not specify that employers maintain copies of drawings and specifications on the job, and employers do not use outrigger scaffolds in general industry. Therefore, the information collection requirement specified by existing §1910.28(e)(3) would be unnecessary.
	Total	6,125	3,116	-3,009	\$71,325	62,310	