

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
REGULATION ON DEFINITION AND REQUIREMENTS FOR
A NATIONALLY RECOGNIZED TESTING LABORATORY (29 CFR 1910.7)
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0147
(May 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 principal 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). In fulfilling this objective, the OSH Act authorizes the implementation of such rules and regulations as [the Assistant Secretary of Labor for Occupational Safety and Health] may deem necessary to carry out [his/her] responsibilities under the Act . . . (29 U.S.C. 657).

A number of standards issued by the Occupational Safety and Health Administration (OSHA) contain requirements for equipment, products, or materials. These standards often specify that employers use only equipment, products, or material tested or approved by a nationally recognized testing laboratory (NRTL); this requirement ensures that employers use safe equipment, products, or materials in complying with the standards. Accordingly, OSHA promulgated the regulation titled “Definition and Requirements for a Nationally Recognized Testing Laboratory” (the Regulation). The Regulation specifies procedures that organizations must follow to apply for, and to maintain, OSHA’s recognition to test and certify equipment, products, or material for this purpose.

As part of the recognition process, the Regulation requires that organizations seeking recognition submit an initial-recognition application to OSHA. The Agency reviews the information provided in the initial-recognition application to determine if an organization meets the qualification criteria specified in the Regulation. These criteria address an organization’s independence and capability to test and examine equipment, products, or material for safety (including fire or electrical safety). In this regard, the Agency evaluates an organization’s facilities, equipment, staff training, written testing procedures, and calibration and quality control programs necessary to test and examine equipment, products, and material for safety. If OSHA approves the initial-recognition application, it will recognize the organization as an NRTL for five years.

Once recognized, an NRTL may apply to expand its current recognition to cover additional categories of NRTL testing. To do so, an NRTL must submit an expansion-of-recognition application that provides the Agency with information demonstrating that it meets the testing

criteria specified by the Regulation for these additional categories. An NRTL may also revise its testing procedures, such as testing methods or pass-fail criteria, provided the revisions are at least as effective as the prior testing procedures; OSHA may review these revisions during the annual site visit to the NRTL.

To renew recognition for another five-year period, an NRTL must submit a renewal-of-recognition application or request to the Agency several months before the current recognition expires. OSHA may in some cases dispense with this renewal requirement provided the organization certifies its continuing compliance with the Regulation and provided OSHA has not found continuing material deficiencies in the organization's operations.

To ensure that NRTLs are meeting the requirements of the Regulation, the Agency attempts to conduct site visits at each NRTL annually (i.e., audits). During these site visits, an NRTL provides OSHA with written information to evaluate its compliance with the requirements for recognition. These reviews also permit the Agency to determine if revisions to testing procedures made by NRTLs are at least as effective as the prior testing procedures. These site visits help to ensure that equipment, products, or material used by employers to comply with OSHA's standards are providing employees with the highest level of protection available.

In addition to submitting applications, an organization may choose to apply for approval to use "supplemental programs". These programs allow an organization to use other qualified parties to perform certain activities necessary in testing, examining, and/or certifying products. OSHA approves the use of these programs if the organization meets criteria set forth in OSHA policy. The Agency established these criteria through publication of a notice in the *Federal Register* (FR) on March 9, 1995 (Vol. 60, No. 46, pp. 12980-12985). OSHA adopted an additional supplemental program on January 9, 2009 (Vol. 74, No.6, pp. 923-927). Use of such other qualified parties is a common practice in product safety testing.

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.

Appendix A, section I.A. of the Regulation requires that organizations seeking recognition submit an initial-recognition application. The initial-recognition application allows the Agency to evaluate an organization's capability to test and examine equipment, products, or material for safety, and to meet other qualification requirements specified in the Regulation. Section II.B. of Appendix A specifies the requirements for expansion-of-program applications, which permit OSHA to determine whether or not an NRTL can perform additional categories of NRTL testing. NRTLs must also provide timely renewal-of-recognition applications as specified in Appendix A, section II.C. of the Regulation so that the Agency can evaluate information obtained during previous site visits to the NRTL, as well as any other available information, in determining whether or not to continue the NRTL's recognition.

Information collected for approval of a supplemental program allows the Agency to determine whether the organizations has the necessary controls to qualify other parties to perform certain activities necessary in testing, examining, and/or certifying products.

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 burdens.

Employers may use improved information technology to prepare applications and notices required by the Regulation. Accordingly, the Agency facilitates the process by providing electronic guidelines for preparing initial-recognition applications. These guidelines also describe how to submit expansion and renewal of recognition applications as well as request for approval to use the supplemental programs. The guidelines are especially important because the Regulation does not allow OSHA to mandate the use of an application form.

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 A.2 above.

OSHA permits any organization completing an initial-recognition application to submit reports on its operations made by qualified accrediting organizations. The Agency uses the information in these reports to evaluate the organization's testing capabilities.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collection requirements of the Regulation 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.

Without the paperwork required by the Regulation, OSHA could not effectively and efficiently determine an organization's capability to test and examine equipment, products, or materials for safety, and to meet other qualification requirements specified in the Regulation. The Agency believes that the five-year span for submitting a renewal-of-recognition application provides NRTLs with an incentive to maintain their testing and certification capabilities.¹ These provisions help to ensure that equipment, products, or material used by employers in complying with the Agency's standards are safe.

¹The Agency limits the scope of review during annual site visits to an evaluation of some, but not all, of the testing and certification activities of an NRTL (e.g., the number of tests performed and the accuracy of testing documentation); during a few of these visits, OSHA also evaluates revisions made by the NRTL to its testing procedures. The review of renewal-of-recognition applications involves a more extensive evaluation of a NRTL's testing and certification activities to ensure that it continues to meet the requirements specified by paragraph 29 CFR 1910.7(b).

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 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.

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 March 4, 2010 (75 FR 9953, Docket No. OSHA-2010-0007) requesting public comment on its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirement specified by the Standard on

the Definition and Requirements for a Nationally Recognized Testing Laboratory (29 CFR 1910.7) (OMB Control Number 1218-0147). This notice was part of a preclearance consultation program to provide those interested parties the opportunity to comment. The Agency received no comments in response to this notice.

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

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

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

The Agency provides no assurance of confidentiality regarding the information included in paperwork required by the Regulation. However, OSHA believes that none of the provisions of the Regulation requires an organization to provide confidential information. The Agency would resolve any issues concerning confidentiality of information under 29 CFR 1903.9 (“Trade secrets”) and/or 29 CFR part 70 (“Production or disclosure of information or materials”).

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 Regulation requires employers to include sensitive information in their applications and notices.

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 collection 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.**

Based on recent experience, OSHA estimates that each year two organizations will submit initial-recognition applications, seven NRTLs will send expansion-of-recognition applications, and three NRTLs will send renewal-of-recognition applications. The expansion applications may entail the use of additional testing categories or the use of additional testing or certification facilities. In addition, the Agency presently conducts about 50 annual site visits to review the NRTLs; these site visits include evaluating revised testing procedures implemented by an NRTL. With regard to the supplemental programs, OSHA estimates that five organizations will apply for approval to use one or more of these programs. Table 1 below provides a summary of the burden hour and cost estimates required for organizations to complete these paperwork requirements.

Table 1

Summary of Burden-Hour and Cost Estimates for Organizations to Complete the Required Paperwork

Category	Number of Org's ¹	Burden Hours per Org'n ²	Total Burden Hours	Cost ³
Initial-Recognition Applications	2	160	320	\$8,074
Expansion-of-Recognition Applications (additional testing categories)	5	10	50	\$1,262
Expansion-of-Recognition Applications (additional testing sites)	2	24	48	\$1,211
Renewal-of-Recognition Applications	3	24	72	\$1,817
Requests to Use Supplemental Programs	5	10	50	\$1,262
Annual Site Visits	50	16	800	\$20,184
Totals	67		1,340	\$33,810

¹"Org's/Org'n refers to "organizations/organization."

²Average number of burden hours per organization. The estimates for these hours were derived from information developed for purposes of establishing the Agency's fee structure for NRTLs. The data underlying that information is not available.

³Based on an average hourly rate of \$25.23 (wages and benefits) for a service worker. For private industry, the average hourly rate is based on those workers in service-providing industries. The average hourly wage rate is \$18.14 for January 2009. This information is from Table B-11 in the Bureau of Labor Statistics (BLS) report titled, "Average hourly and weekly earnings of production or nonsupervisory workers on private nonfarm payrolls by major industry sector." Based on the BLS report titled, "Employer Costs for Employee Compensation, Quarter 3, 2008," wages account for 71.9% of total compensation. Using this percentage, the average hourly total compensation is \$25.23 for January 2009.

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.

• 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 respondents of complying with the certification requirement specified by the Regulation.

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.

Table 2 below provides a summary of the estimated annual cost to the Federal government associated with the paperwork requirements specified by the Regulation, which consists of: Processing initial-recognition, expansion-of-recognition, and renewal-of-recognition applications, including review and evaluation of the applications; reviewing requests for use of the supplemental programs; site visits to conduct reviews associated with applications; preparation of reports, evaluations, and Federal Register notices associated with the applications; and performing annual site visits.

Please note that the number of annual site visits shown in Table 2 has been adjusted from 45 to 50. This adjustment increased staff time by 120 hours, from 1,425 to 1,545 hours. The 1,425 hours were reported in the 2003 supporting statement. In addition, the hourly rate for staff costs increased from \$54.50 (reported in the 2003 supporting statement) to \$63.80, based upon the Agency's annual review of the costs that serve as a basis for the fees it charges to the NRTLs. The \$63.80 rate is generally applicable to the activities listed in Table 2 and thus is a valid cost of processing the paperwork. This change in hourly rate resulted in an increase of \$29,249 in the cost to the Government, from \$98,397 to \$126,221.

Table 2

Summary of Estimated Hours and Cost for the Federal Government
to Process the Required Paperwork

Category	Number of Org'ns ¹	Hours per Org'n ²	Total Hours	Total Hour Cost ³	Travel Cost ⁴	Total Cost
Initial-Recognition Applications	2	106	212	\$11,957	\$2,000	\$13,957
Expansion-of-Recognition Applications (additional testing categories)	5	15	75	\$4,230	\$900	\$5,130
Expansion-of-Recognition Applications (additional testing sites)	2	33	66	\$3,722	\$900	\$4,622
Renewal-of-Recognition Applications	3	38	114	\$6,430	\$1,350	\$7,780
Requests to Use Supplemental Programs	5	4	20	\$1,128	\$0	\$1,128
Annual Site Visits**	50	14	700	\$39,480	\$22,500	\$61,980
Totals	67		1,187	\$66,947	\$27,650	\$94,597

¹"Org'ns/Org'n refers to "organizations/organization."

²Average number of hours per organization.

³Based on an average staff cost of \$56.40 per hour that OSHA has proposed to determine certain fees it charges to NRTLs (See 74 FR 64027, 12/7/2009). This average cost per hour consists of the salary and fringe includes for "direct staff" members who perform the application reviews, site visits, and other activities required by the Regulation. Accordingly, direct costs are the wages and benefits paid to direct staff members of the NRTL Program. OSHA's authority for collecting and amending its fees is given under 29 CFR 1910.7(f).

⁴Total travel cost for all organizations visited. However, only two applications for additional test categories are estimated to involve travel.

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

There is no burden hour adjustment associated with this Information Collection Request. The Agency is requesting that it retain its previous burden hour estimate of 1,340 hours. With regard to Item 14 above, the costs have decreased because the average staff costs decreased from \$63.80 to \$56.40. The decrease was a result of a reduction in the estimated time needed for collection activities.

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 the Regulation.

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.

OSHA is not seeking such approval.

18. Explain each exception to the certification statement in ROCIS.

OSHA is not seeking an exception to the certification statement in ROCIS.