

**Supporting Statement for a Request for OMB Review under  
The Paperwork Reduction Act**

**1. IDENTIFICATION OF THE INFORMATION COLLECTION**

**1(a) Title of the Information Collection**

**Title: Disclosure Requirements of Known Residential Lead-Based Paint and Lead-Based Paint Hazards**

**EPA ICR No.: 1710.06**

**OMB Control No: 2070-0151**

**1(b) Short Characterization**

Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act) (42 U.S.C. 4852d) (see Attachment 1) directs the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) to jointly issue regulations requiring disclosure of known lead-based paint and/or lead-based paint hazards by persons selling or leasing housing constructed before the phase-out of residential lead-based paint use in 1978. Under that authority, EPA and HUD established the following requirements at 40 CFR 745, Subpart F and 24 CFR 35, Subpart H (see Attachments 2 and 3, respectively): (1) Disclosure of all known lead-based paint (LBP) and LBP hazards to potential buyers and lessees by sellers and lessors before the selling or leasing of most housing built before 1978; (2) Disclosure includes any and all LBP and LBP hazard information such as LBP inspection reports, risk assessments, elevated blood lead level reports and other data; (3) Sellers and lessors must provide purchasers and lessees with a federally approved lead hazard information pamphlet<sup>1</sup>; (4) Sellers must provide purchasers with a 10-day opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before the purchaser is obligated under any purchase contract; (5) This disclosure activity is required of sellers, lessors, and their agents; (6) Records of these disclosure activities must be retained and maintained by sellers, lessors and agents for a minimum of 3 years; and (7) Records must include signed and dated disclosure forms and a list of available records and reports (61 FR 9085, March 6, 1996). The requirements do not apply to housing that has been found to be free of lead-based paint by a certified LBP inspector, 0-bedroom dwellings, housing for the elderly, housing for the disabled, or short-term leases.

These provisions ensure that families receive both specific information on the housing's lead history and general information on lead exposure prevention. With this information, consumers can make more informed decisions concerning home purchase, lease, and maintenance to protect their families from lead hazard exposure.

The following is a description of the affected parties and the supplemental requirements related to each:

Sellers of Pre-1978 Residential Housing: The rule requires that sellers of pre-1978 housing (1) provide a lead hazard information pamphlet to contract offerors, and (2) complete and attach a disclosure form to their sales contracts. A sample form is provided in the preamble to the regulations, but only the information elements are required, each respondent can develop its own form. The form must be signed by the seller, purchaser, and any agent(s) acting on behalf of the seller.

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<sup>1</sup> This may be either the *Protect Your Family From Lead in Your Home* pamphlet developed by EPA, HUD, and the Consumer Product Safety Commission, or another one developed by a State and approved by the federal government.

Lessors of Pre-1978 Residential Housing: The rule requires lessors of pre-1978 housing to (1) provide a lead hazard information pamphlet to lessees, and (2) complete and attach a disclosure form to their leasing contracts. Again, while a sample form is provided, each respondent is permitted to develop its own form. The form must be signed by the lessor and any agent(s) acting on behalf of the lessor. The form must then be retained by the lessor, and any agents acting on their behalf.

Agents Acting On Behalf of Sellers or Lessors: Section 1018 of the Act specifically directs EPA to require agents acting on behalf of sellers or lessors to ensure compliance with the disclosure regulations.

EPA and HUD jointly administer and enforce the rule, and have agreed to maintain a single ICR for these information collection activities. EPA will take the lead in preparing the necessary documentation for renewals.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

The third party disclosure requirements that are contained in the regulations are specifically mandated by section 1018 of the Act. The recordkeeping requirements contained in the regulations are necessary for ensuring compliance with the provisions of the regulations.

### **2(b) Use/Users of the Data**

The third party disclosure requirements attempt to ensure that families receive both specific information on the housing's lead history and general information on lead exposure prevention. With this information, consumers may be able to make more informed decisions concerning home purchase, lease, and maintenance to protect families from lead hazard exposure.

The recordkeeping requirements enable EPA and HUD, as well as tribal governments, state and local regulators and the courts, to both determine compliance and effectively enforce section 1018 and the provisions of the rule. In addition, the Act provides a private cause of action for persons harmed by violations of section 1018, and records kept pursuant to this rule may be important evidence for these parties.

## **3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Non-Duplication**

The third party disclosure and recordkeeping requirements covered by this ICR are unique and are not in any way duplicated by another information collection activity.

### **3(b) Public Notice Required Prior to ICR Submission to OMB**

In proposing to renew this ICR, EPA provided a 60-day public notice and comment period that ended on December 27, 2010 (75 FR 66087, October 27, 2010). EPA received no comments during the comment period.

### **3(c) Consultations**

Additionally, under 5 CFR 1320.8(d)(1), OMB requires agencies to consult with potential ICR respondents and data users about specific aspects of ICRs before submitting an ICR to OMB for review and approval. In accordance with this regulation, EPA submitted questions to several parties via email. The individuals contacted were:

Tracey Benson  
National Association of Independent Landlords  
landlord@nail-usa.com

Russell Riggs  
National Association of Realtors  
riggs@realtors.org

Eileen Lee  
National Multi Housing Council  
elee@nmhc.org

Gail Phillips  
National Association of Residential Property Managers  
gphillips@narpm.org

Patrick MacRoy  
National Center for Healthy Housing  
pmacroy@nchh.org

Following its solicitation for comments, EPA received responses from the National Association of Realtors and the National Multi Housing Council. The organizations requested a joint, in-person meeting with EPA, which was held on September 29, 2010 at EPA Headquarters. Russell Riggs of NAR, Eileen Lee of NMHC, and Michelle Price, Cindy Wheeler and Ryan Schmit of EPA were in attendance. During the meeting, Mr. Riggs and Ms. Lee asked general questions regarding Information Collection Requests, the ICR process, and the Disclosure Rule in order to further their understanding of these topics. They did not offer specific feedback related to the renewal of this information collection. A copy of EPA's consultation e-mail to the above potential respondents is included in Attachment 4.

### **3(d) Effects of Less Frequent Collection**

The third party disclosure occurs when the regulated entities are engaged in a specific transaction, i.e., the sale or lease of target housing. As such, it is not possible or appropriate to consider a less frequent disclosure interval.

**3(e) General Guidelines**

This rulemaking is consistent with OMB’s General Guidelines for information collections under the PRA. Although no form is imposed by the regulations, to facilitate and simplify compliance, EPA and HUD provide a sample form for respondents to adopt or modify for their use. Since this form is simply a sample, it does not contain a PRA Notice, OMB number or expiration date.

**3(f) Confidentiality**

This collection does not require the disclosure or retention of confidential information. The third party disclosure requirements also comply with the provisions of the Privacy Act of 1974 and OMB Circular A-108.

**3(g) Sensitive Questions**

This collection does not include questions of a sensitive nature.

**4. THE RESPONDENTS AND THE INFORMATION REQUESTED**

**4(a) Respondents/NAICS Codes**

EPA estimates that there are 39,124,000 annual respondents. The respondent universe for this ICR includes sellers, purchasers, lessors, and lessees of non-exempt residential dwellings built before 1978, or real estate agents representing such parties. Respondents affected by this collection activity primarily include those businesses that fall under NAICS code 531, Real Estate, plus private parties engaged in sale or lease transactions.

<b>Categories</b>	<b>NAICS Codes</b>	<b>Examples of potentially-affected entities</b>
Real Estate Operators/ Lessors	53111	Lessors of residential buildings and dwellings
Offices of Real Estate Agents/ Property Managers	53121 53131	Real estate agents and brokers Property managers
Private Parties/Sales Transactions	None	Sellers and buyers of residential dwellings
Private Parties/Lease Transactions	None	Landlords and tenants of residential dwellings

This listing is not intended to be exhaustive. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether a particular entity is affected by this action, you should carefully examine the applicability provisions in 40 CFR 745.100.

**4(b) Information Requested**

(i) Data Items

When engaged in the subject activity, i.e., the sale or lease of target housing, the respondent must maintain the following records:

- Signed, dated, and completed disclosure forms from sales and leases involving the target housing
- Known information on LBP and LBP hazards in the target housing

(ii) Respondent Activities

When engaged in the subject activity, i.e., the sale or lease of target housing, the respondent must perform the following activities:

- Read the regulation to learn the basic requirements
- Prepare and complete the written form
- Store, file, and maintain the information for at least three years

**5. THE INFORMATION COLLECTED--AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT**

**5(a) Agency Activities**

The primary purpose of this information collection activity is the provision of certain information between two parties in a transaction, i.e., third party disclosure. The agencies are therefore primarily engaged in the following basic activities:

- Public outreach to assist in the understanding of, and compliance with, the rule requirements
- The development and maintenance of an infrastructure for receiving tips and complaints regarding alleged violations of the regulations
- Compliance monitoring and enforcement of the provisions in the regulation

**5(b) Collection Methodology and Management**

This is a third party disclosure requirement that occurs on a specific occasion. There is no information collection by the agencies. Records are required to be retained by regulated parties and made available to the agencies as part of compliance monitoring and enforcement activities.

**5(c) Small Entity Flexibility**

The affected population for this rule is largely comprised of small entities, and all of the requirements have been crafted to maximize flexibility. EPA and HUD have also developed guidance and a sample form to further facilitate and assist small entities with compliance.

**5(d) Collection Schedule**

The third party disclosure is transaction specific and only occurs when the regulated entities are engaged in a specific transaction, i.e., the sale or lease of target housing.

**6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION**

Burden hour and associated annual costs have been estimated for three classes of respondents identified as being affected by the lead-based paint hazard disclosure rule for real estate transfers:

1. Property Owners and Lessors
2. Offerors/Buyers and Lessees/Tenants
3. Agents acting on behalf of Property Owners and Lessors, and Agents acting on behalf of Offerors/Buyers (following prior analyses, it is assumed that there are no agents acting on behalf of lessees or tenants)

Burden hours and costs were estimated for four activities:

1. Start-up activity
2. Disclosure record preparation activity
3. Record-keeping
4. Materials

The burden hour and cost estimates are summarized in the attached tables and discussed below.<sup>2</sup> For the ICR burden analysis, burden hours per individual respondent for a given activity were estimated from the total number of annual burden hours in that activity (based on total events or total persons affected as reported in the regulatory analysis) divided by the estimated total number of respondent parties that would potentially be affected by the disclosure rule.

The unit burden estimates used in this analysis were developed and published in the *1995 RIA of Lead-Based Paint Hazard Disclosure Rule for Real Estate Transfers*. To develop these burden estimates EPA consulted with the Massachusetts Conveyancers Association and representatives of affected parties. The Start-up burden was based on the amount of time the association dedicated to the disclosure in their lead paint law training class. Disclosure burden was based on the average amount of time real estate agents and lessors spent discussing the disclosure with their clients.

The estimated paperwork burden on a per-event basis is and the estimated number of respondents subject to the disclosure requirements are presented in Table 6.1.

**Table 6.1: Summary of Time Requirements for Appropriate Cost Components <sup>a</sup>**

Respondent Classification	Time Required	Total Number of Entities
<i>Start-up burden for training and preparation</i>		

<sup>2</sup> The estimates of annual individual burden hours in this analysis were developed using the methods and estimates previously developed and reported in *Regulatory Impact Analysis of Lead-Based Paint Hazard Disclosure Rule for Real Estate Transfers (1995)* using updated costs, numbers of persons and numbers of transactions. Likewise, the assumptions presented in this ICR were presented in the RIA as well.

New real estate agents (NAICS 53121)	1 hour	29,737
New lessors (NAICS 53111)	1 hour	12,967
Each home seller	1 hour	3,200,000
<i>Disclosure events per sale (assuming two offers per sale)</i>		
Sellers	5 minutes x 2	3,200,000
Agent for sellers	5 minutes	3,200,000 x 87% = 2,784,000
Offerors	5 minutes x 2	3,200,000
Agents for offerors	5 minutes x 2	3,200,000 x 77% = 2,464,000
<i>Disclosure events per rental</i>		
Owners/lessors	5 minutes	7,600,000
Agents for owners/lessors	5 minutes	7,600,000 x 87% = 6,612,000
Tenants/lessees	5 minutes	7,600,000
<i>Record-keeping time</i>		
Seller	0.5 minutes	3,200,000
Agent for seller	0.5 minutes	3,200,000 x 87% = 2,784,000
Owners/lessors	0.5 minutes	7,600,000
Agent for owners/lessors	0.5 minutes	7,600,000 x 87% = 6,612,000

<sup>a</sup> assuming 77 percent of offerors, 87 percent of sellers, and 87 percent of lessors have agents

### 6(a)-(b) Estimating Respondent Burden and Costs

#### Start-Up Burden

The start-up burden involves the time and cost required for individuals and agents to learn the disclosure rule's requirements and set up procedures for meeting those requirements. EPA estimates that the paperwork burden related to learning the rule and setting up compliance procedures is one hour. This estimate assumes real estate sales agents, sellers of rental property, and property managers only incur this start-up burden once, when they initially enter the profession. Since the rule's initial year has passed, the calculation assumes each year has an average number of new entrants incurring the start-up costs in their first year. The methodology used to calculate new entrants is discussed in section 6(d).

#### Cost of Respondents' Time

The method of estimating the cost of a respondent's time depends on whether he or she is a paid employee acting as an agent for some other party, or is an unpaid individual acting on his or her own behalf. The cost of an employed agent's time is the fully loaded hourly cost, including wages, benefits, and overhead. The cost of time for an individual acting for oneself is estimated to be the value that they would place on a marginal unit of leisure or, conversely, the net income they would receive from a marginal unit of additional work. Thus their time is valued at their after-tax wage rate.

The hourly wage rate for the agents for sellers and offerors used in this analysis is \$22.35 per hour, which is the most recently reported (released May 2009) annual mean hourly wage from the Bureau of Labor Statistics *National Industry-Specific Occupational Employment and Wage Estimates* for NAICS 5312, offices of real estate agents and brokers. Similarly, the hourly wage rate for the agents for lessors used in this analysis is \$18.17 (same source) for NAICS 5311, lessors of real estate. Non-wage benefits were estimated at 27.98% of wages, based on benefits data specifically for real estate agents and lessors *Employer Cost for Employee Compensation – December 2009* (Bureau of Labor Statistics, data released on March 10, 2010). An additional 17 percent of the hourly wage rate has been added for overhead costs. This gives an estimated total hourly labor cost of \$32.40 for the agents of sellers and offerors and \$26.34 for the agents of lessors (Table 6.2).

The agents discussed above are affected by this rule as part of their occupation. It is assumed that sellers, buyers, lessors and lessees/tenants engage in these activities on their own behalf and not as part of their occupations. Time that is not part of the person’s occupation is valued at its opportunity cost, which is value that the individual would place on his or her next best alternative activity. Economists generally assume that the opportunity cost marginal value of an individual’s time is best estimated by their marginal earnings, net of taxes and social insurance deductions. This analysis uses an estimate of \$13.47 per hour for the cost or value of time for those respondents acting on their own behalf, not as paid employees (Table 6.2).

The current marginal federal income tax rate for most workers is either 15 percent or 25 percent, so 20 percent was chosen to represent the typical or average rate. The average employee’s FICA contribution is 6.2 percent of their wage, and their Medicare contribution is 1.45 percent according to the Office of the Chief Actuary. As stated in the *2009 Bureau of Labor Statistics National Current Employment Statistics*, the mean hourly earnings rate over all non-farm occupations is \$18.62. This value was reduced by 27.65 percent to \$13.47 to account for income tax, the employee’s share of FICA, and the Medicare tax payment.

**Table 6.2: Economic Cost of Respondent’s Time**

<b>Respondent Classification</b>	<b>Hourly Wage</b>
Real estate agents, NAICS 5312	\$32.40
Lessors of real estate, NAICS 5311	\$26.34
Individuals acting on their own behalf	\$13.47

Assuming the start-up burden is one hour as previously stated, the start-up burden and cost per respondent is shown in Table 6.3.

**Table 6.3: Annual Start-up Burden Hours and Cost for Training and Preparation per Respondent Classification**

<b>Respondent Classification</b>	<b>Burden Hours</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
New agents for sellers (NAICS 53121)	1	\$32.40	\$32.40
New agents for owners/lessors (NAICS 53111)	1	\$26.34	\$26.34
Each home seller	1	\$13.47	\$13.47



Disclosure Record Preparation Burden

The disclosure record preparation burden involves the time and cost for performing the disclosure activities in conjunction with the sale or rental of target housing as specified by the rule (Table 6.4). Each instance is estimated to take five minutes for each of the parties. For each sale handled by an agent on the seller's side, the agent is expected to explain the rule to the seller. For each offer in each sale handled by an agent on the offeror's side, the agent is expected to explain the rule to the offeror. Thus for each sale without an agent the analysis assumes a total burden of twenty minutes (five minutes on each of two sides, for two offers), and a total burden of thirty five minutes when the sale has an agent for each offeror and for the seller (twenty minutes plus five minutes for each of three agents).

**Table 6.4: Disclosure and Record Preparation Burden and Cost per Respondent**

<b>Respondent Classification</b>	<b>Minutes per Sale or Rental</b>	<b>Burden in Minutes</b>	<b>Burden in Hours</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
Sellers	5 x 2	10	.1667	\$13.47	\$2.25
Agent for sellers	5 x 87%	4.35	.0725	\$32.40	\$2.35
Offerors	5 x 2	10	.1667	\$13.47	\$2.25
Agents for offerors	5 x 2 x 77%	7.7	.1283	\$32.40	\$4.16
Owners/lessors	5	5	.0833	\$13.47	\$1.12
Agents for owners/lessors	5 x 87%	4.35	.0725	\$26.34	\$1.91
Tenants/lessees	5	5	.0833	\$13.47	\$1.12

Record-Keeping Burden

The record-keeping burden involves the time and cost for meeting the disclosure rule's record-keeping requirements.

The record-keeping provisions of this rule require the seller and the selling agent (or in the case of rentals, both the owners/lessors and their agents) maintain records of the signed disclosure. The record-keeping requirement causes them to spend time in filing the specified documents. In all likelihood, some type of filing system already exists for each party. The incremental filing time that may reasonably be attributed to the disclosure rule itself should be very small, or approximately 0.5 minutes (0.0083 hours) per record (Table 6.5).

**Table 6.5: Record Keeping Burden and Cost per Respondent**

<b>Respondent Classification</b>	<b>Hours Per Record</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
Sellers	0.0083	\$13.47	\$0.11
Agents for sellers	0.0083	\$32.40	\$0.27
Owners/lessors	0.0083	\$13.47	\$0.11
Agent for owners/lessors	0.0083	\$26.34	\$0.22

Materials Burden

The materials burden involves the cost of materials required for rule compliance. Materials costs include the lead hazard information pamphlets, filing materials, and copies to be made. The sellers and lessors may choose to provide these materials themselves or to have their agents manage these materials. But for simplicity, this analysis assumes that these costs are borne by the principals, the sellers and the lessors.

It is assumed that there is one copy of a signed acknowledgment and disclosure statement for every offer or rental contract. It is assumed that each statement will require no more than one side of a single sheet of paper. For sales and rentals involving an agent, three sets of the contract must be generated by the agent (one for the buyer/lessee, one for the seller/lessor and one for the agent) for a total of three copies. In addition, sales transactions will also require a one-page lead-based paint inspection contingency clause for each party. Those are not required for rentals. The following table summarizes the number of pages required for each sale or rental. This analysis assumes two offers per sale. Copy costs are assumed to be an average of \$0.06 per page (Table 6.7).

**Table 6.7: Copy and Filing Costs <sup>a</sup>**

<b>Respondent Classification</b>	<b>Pages per Sale or Rental</b>	<b>Copying Cost at \$0.06 per Page</b>	<b>Filed Pages</b>	<b>Filing Cost at \$0.006 per Sheet</b>
Sales without agents (13%)	8	\$0.48	n/a	
Sales with 1 agent (10%)	10	\$0.60	1	\$0.006
Sales with 2 agents (77%)	12	\$0.72	1	\$0.006
Rental without agents (13%)	2	\$0.12	n/a	
Rental with agents (87%)	4	\$0.24	1	\$0.006

<sup>a</sup> disclosure/acknowledgment and paint inspection contingency clause

Filing-related material costs include the cost of storing the signed disclosure and acknowledgment statements that result from a completed transaction. Filing costs for individual buyers and sellers and owners and renters are considered a negligible incidental expense. The filing costs are assumed to only for agents. For filing materials, it is assumed a four drawer, 25-inch deep filing cabinet can hold 25,000 sheets of paper and costs approximately \$140 (discount office supply price, August, 2003). This translates into a \$0.006 cost per sheet of paper. For each sale or rental transaction, agents are assumed to retain one sheet of paper containing a signed disclosure and acknowledgment statement (Table 6.7).

**6(c) Estimating Agency Burden and Costs**

The primary purpose of this information collection activity is the provision of certain information between two parties in a transaction, and constitutes a third party disclosure under the PRA. The Agency burden and costs associated with this activity are, therefore, limited to the provision of guidance and program oversight or enforcement. As such, there is no need to estimate the related

Agency burden and costs under the PRA.

#### **6(d) Estimating the Respondent Universe and Total Burden and Costs**

##### Target Housing Sales and Rental Events

The estimated number of target housing sales per year is based on an estimate of the share of owner-occupied housing units built prior to the ban of the use of lead-based paint in residences, multiplied by an estimate of the number of existing home sales per year. The number of target housing rental events is based on the number of households occupying target rental housing who report having moved during a one-year period.

Based on data in the *2008 National Association of Realtor Profile of Home Buyers and Sellers*, 77 percent of offerors and 87 percent of sellers are assumed to use agent representation. The remaining 23 percent and 13 percent of offerors and sellers respectively are assumed to conduct transactions on their own. Lessor agent specific data could not be located; therefore it is assumed the same percentage of lessors will use paid agents as sellers. The number of lessors assumed to use agent representation is 87 percent with the remaining 13 percent acting without the assistance of paid agents. As in previous analyses, this report maintains the assumption that 100 percent of tenants/lessees are acting on their own behalf.

Data on owner-occupied and rental housing, including age, are available from the *American Housing Survey for the United States: 2007*, issued jointly by the U.S. Dept. of Housing and Urban Development and the U.S. Census Bureau in August 2008. An estimate of the expected number of existing home sales in 2010 is available in the National Association of Realtors' forecast titled *U.S. Economic Outlook: October 2009*, accessed on-line from [www.realtor.org/research/index.html](http://www.realtor.org/research/index.html).

For the purposes of the 1018 notification regulations, target housing is built prior to 1978 and meets other conditions. At the time of the 2007 housing survey, the existing U.S. owner-occupied housing stock consisted of 37.8 million units built prior to 1975, 7.9 million units built from 1975 to 1979, and 30.0 million units built after 1979. Calculating from those numbers (and assuming that 3/5 of the units built from 1975 to 1979 were built before 1978), an estimated 56.1 percent of owner-occupied housing stock is target housing. The estimates from the National Association of Realtors project 5.7 million existing home sales in 2010. Multiplying 5.7 million by 56.1 percent gives an estimate of 3.2 million target housing sales per year (Table 6.8).

There are no available data that reports directly on the number of housing rental events per year. However, the 2007 housing survey does report on the number of renter occupied units, at the time of the survey, occupied by households who had moved in the past year. This number can be used as a proxy to estimate the number of new rentals, with a caveat. This procedure will produce an underestimate, to the degree that some of those households may have moved more than once during that one-year period.

The data reported in the survey indicate that there 6.6 million units built prior to 1975 and occupied by households who had moved in the year prior to the survey, 1.6 million such units built from 1975 to 1979, and 4.1 million units built after 1979. Assuming that 3/5 of the units dating from 1975 to 1979 are pre-1978, we can estimate approximately 7.6 million target housing rentals existed during the year preceding the survey. Thus this analysis will assume 7.6 million additional target housing rentals per year, for each year over the course of this ICR renewal.

Number of Respondents

As mentioned previously, only new entrants are assumed to have start-up costs as the rule's initial year has passed. All others in the respondent universe are assumed to have already incurred the start-up costs. The number of new entrants is based on two factors: the turnover associated with replacement of retirees and growth rate of this employment category over time.

The estimated compound annual growth rate is calculated using the number of employees for NAICS code 53121 (real estate agents and brokers) using U.S. Census Bureau County Business Patterns survey data over the period 1998 to 2007, the years for which NAICS code based data are currently available. The Census reports a total of 241,082 employees in that category in 1998, and 367,125 as of 2007. Therefore the annual geometric growth rate in employees from 1998 to 2007 is an estimated 4.8 percent.

The Agency currently does not have information on the employee turnover rate for NAICS industry sectors. Assuming that a typical worker might retire after thirty years, and if the age distribution were uniform, then the retirement rate (and thus the retirement replacement rate) would be about 3.3 percent. In a growing industry (such as this), one would expect the proportion of retirement-age workers would be smaller than for younger cohorts. On the other hand, some unknown number of workers undoubtedly leaves the industry before retirement. For purposes of this analysis, we assume that 3.3 percent represents a reasonable estimate of the turnover rate.

The 4.8 percent growth rate combined with the 3.3 percent turnover rate equals a new-agent training rate of 8.1 percent. Applying this rate to the 367,125 NAICS code 53121 employees in 2007, an estimated 29,737 new agents incur start-up costs each year (Table 6.8).

Individual sellers and lessors also incur this start-up burden, when they first encounter the disclosure rule. The analysis assumes that each seller is encountering the disclosure rule for the first time. This may lead to an over-count, since individuals may sell their current home and move on multiple occasions. The owner/lessor of rental property may be more likely to encounter the disclosure rule more than once, if the lessor handles more than one target housing property or rents the same property more than once. Thus, to prevent possible multiple counting of start-up costs this analysis assumes that the owner/lessor has already encountered the rule and is therefore not a new entrant. While there may be some lessors who are first encountering this rule, there also may be some sellers who have encountered this rule previously, so that an undercount on lessors may be matched by an over-count on sellers.

While this analysis does not count owner/lessors as new entrants, it does consider that the agents acting on their behalf incur this start-up burden when they enter the profession. This portion of the start-up burden is captured through data on employment in NAICS code 53111 (lessors of residential buildings and property). As for real estate agents, the number of new entrants among lessors is based on two factors: the turnover associated with replacement of retirees and other departing workers, and growth rate of this employment category over time.

The estimated compound annual growth rate is calculated using the number of employees for NAICS code 53111 (lessors of residential buildings and dwellings) using U.S. Census Bureau County Business Patterns survey data over the period 1998 to 2007, the years for which NAICS code based data are currently available. The Census reports a total of 276,449 employees in that category in 1998, and 301,548 as of 2007. Therefore the annual geometric growth rate in employees over this period is an

estimated 0.97 percent.

As noted above, the Agency currently does not have information on the employee turnover rate for NAICS industry sectors. Assuming that a typical worker might retire after thirty years, and if the age distribution were uniform, then the retirement rate (and thus the retirement replacement rate) would be about 3.3 percent. For purposes of this analysis, we assume that 3.3 percent represents a reasonable estimate of the turnover rate.

The 0.97 percent growth rate combined with the 3.3 percent turnover rate equals a new-agent training rate of 4.3 percent. Applying this rate to the 301,548 NAICS code 53111 employees in 2007, an estimated 12,967 new lessors incur start-up costs each year (Table 6.8).

**Table 6.8: Total Annual Start-up Burden Hours and Cost for Training and Preparation**

<b>Respondent Classification</b>	<b>Burden Hours</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
New agents for sellers (NAICS 53121)	29,737	\$32.40	\$963,479
New agents for owners/lessors (NAICS 53111)	12,967	\$26.34	\$341,551
Each home seller	3,200,000	\$13.47	\$43,104,000
<i>Total for Sales</i>	<i>3,229,737</i>		<i>\$44,067,479</i>
<i>Total for Rentals</i>	<i>12,967</i>		<i>\$341,551</i>
<b>Grand Total</b>	<b>3,242,704</b>		<b>\$44,409,030</b>

The annual individual disclosure burden for both sales and rental agents is based on the annual number of sales and rental transactions handled by agents, the estimated amount of time required to perform each disclosure, and the total number of respondents (Table 6.9).

**Table 6.9: Total Disclosure and Record Preparation Burden and Cost <sup>a,b</sup>**

<b>Respondent Classification</b>	<b>Minutes per Sale or Rental</b>	<b>Burden in Minutes</b>	<b>Burden in Hours</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
Sellers	5 x 2	32,000,000	533,333	\$13.47	\$7,183,996
Agent for sellers	5 x 87%	13,920,000	232,000	\$32.40	\$7,516,800
Offerors	5 x 2	32,000,000	533,333	\$13.47	\$7,183,996
Agents for offerors	5 x 2 x 77%	24,640,000	410,667	\$32.40	\$13,305,611
Owners/lessors	5	38,000,000	633,333	\$13.47	\$8,530,996
Agents for owners/lessors	5 x 87%	33,060,000	551,000	\$26.34	\$14,513,340
Tenants/lessees	5	38,000,000	633,333	\$13.47	\$8,530,996
<i>Total for sales</i>			<i>1,709,333</i>		<i>\$35,190,403</i>
<i>Total for rentals</i>			<i>1,817,666</i>		<i>\$31,575,332</i>
<b>Grand Total</b>			<b>3,526,999</b>		<b>\$66,765,735</b>

<sup>a</sup> Sales disclosure burden based on an estimated 3,200,000 target housing unit sales per year

<sup>b</sup> Rentals disclosure burden based on an estimated 7,600,000 target housing unit rentals per year

The annual individual record-keeping burden for both sales and rental agents is based on the annual number of sales and rental transactions handled by agents, the estimated amount of time required, per event, to comply with the record keeping requirement, and the total number of respondents (Table 6.10).

**Table 6.10: Total Record Keeping Burden and Cost**

<b>Respondent Classification</b>	<b>Total Records</b>	<b>Hours Per Record</b>	<b>Total Hours</b>	<b>Hourly Cost</b>	<b>Total Cost</b>
Sellers	3,200,000	0.0083	26,560	\$13.47	\$357,763
Agents for sellers	2,784,000	0.0083	23,107	\$32.40	\$748,667
Owners/lessors	7,600,000	0.0083	63,080	\$13.47	\$849,688
Agent for owners/lessors	6,612,000	0.0083	54,880	\$26.34	\$1,445,539
<i>Total for Sales</i>			<i>49,667</i>		<i>\$1,106,430</i>
<i>Total for Rentals</i>			<i>117,960</i>		<i>\$2,295,227</i>
<b>Grand Total</b>			<b>167,627</b>		<b>\$3,401,657</b>

The lead hazard information pamphlets developed by the federal government are 16 pages in length, printed front and back, folded sheet format (i.e., four sheets of standard-sized paper per document), at \$0.54 per pamphlet. The total cost of the pamphlet incurred by real estate agents is calculated using the cost per pamphlet, the total number of offers per sale of target housing (two offers/sale), and the number of sales and rentals of target housing that involve an agent (Table 6.11).

**Table 6.11: Total Pamphlet Costs**

<b>Transaction Classification</b>	<b>Number of Sales or Rentals</b>	<b>Number of Pamphlets</b>	<b>Cost Per Pamphlet</b>	<b>Total Cost</b>
Sales	3,200,000	6,400,000	\$0.54	\$3,456,000
Rentals	7,600,000	7,600,000	\$0.54	\$4,104,000
<b>Total</b>		<b>14,000,000</b>		<b>\$7,560,000</b>

The total copy and filing costs take per transaction costs and aggregate over the number of events experienced by each category of respondent (Table 6.12).

**Table 6.12: Total Copy and Filing Costs <sup>a</sup>**

<b>Respondent Classification</b>	<b>Pages per Sale or Rental</b>	<b>Number of Events</b>	<b>Total Pages</b>	<b>Copying Cost at \$0.06 per Page</b>	<b>Filed Pages</b>	<b>Filing Cost at \$0.006 per Sheet</b>
Sales without agents (13%)	8	416,000	3,328,000	\$199,680	n/a	
Sales with 1 agent (10%)	10	320,000	3,200,000	\$192,000	640,000	\$3,840
Sales with 2 agents (77%)	12	2,464,000	29,568,000	\$1,774,080	4,928,000	\$29,568
Rental without agents (13%)	2	988,000	1,976,000	\$118,560	n/a	
Rental with agents (87%)	4	6,612,000	26,448,000	\$1,586,880	13,224,000	\$79,344
<b>Total</b>			<b>64,520,000</b>	<b>\$3,871,200</b>		<b>\$112,752</b>

<sup>a</sup> disclosure/acknowledgment and paint inspection contingency clause

Copies are assumed to cost \$0.06 per copy. For 64.5 million pages the total copying cost will be \$3.87 million. Filing costs incurred by agents total an estimated \$113,000.

Table 6.13 provides a summary of material costs by type.

**Table 6.8: Materials Costs Summary**

<b>Material Type</b>	<b>Sales</b>	<b>Rentals</b>
Pamphlet costs	\$3,456,000	\$4,104,000
Copy costs	\$2,165,760	\$1,705,440
Filing costs	\$33,408	\$79,344
<b>Total</b>	<b>\$5,655,168</b>	<b>\$5,888,784</b>
<b>Overall Total</b>	<b>\$11,543,952</b>	

Summary Burden and Costs**Table 6.14: Burden and Cost for Real Estate Sales**

<b>Cost Classification</b>	<b>Burden Hours</b>	<b>Cost</b>
Start-up	3,229,737	\$44,067,479
Disclosure event	1,709,333	\$35,190,403
Record keeping	49,667	\$1,106,430
Materials	n/a	\$5,655,168
<b>Total</b>	<b>4,988,737</b>	<b>\$86,019,480</b>

**Table 6.15: Burden and Cost for Rentals**

<b>Cost Classification</b>	<b>Burden Hours</b>	<b>Cost</b>
Start-up	12,967	\$341,551
Disclosure event	1,817,666	\$31,575,332
Record keeping	117,960	\$2,295,227
Materials	n/a	\$5,888,784
<b>Total</b>	<b>1,948,593</b>	<b>\$40,100,894</b>

**Table 6.16: Aggregate burden and costs for the residential lead-based paint hazard disclosure ICR**

<b>Transaction Classification</b>	<b>Burden Hours</b>	<b>Cost</b>
Sales	4,988,737	\$86,019,480
Rentals	1,948,593	\$40,100,894
<b>Total</b>	<b>6,937,330</b>	<b>\$126,120,374</b>



Table 6.17: Respondent Burden Summary

Respondent Classification	Number of Small Businesses	Total Number of Respondents	Responses per Respondent	Burden per Response (hour)	Total Burden	Total Number of Responses
<i>Start-up</i>						
New Real Estate Agents (NAICS 53121)	29,734	29,737	1	1	29,737	29,737
New Lessor Agents (NAICS 53111)	12,966	12,967	1	1	12,967	12,967
Seller	n/a	3,200,000	1	1	3,200,000	3,200,000
<i>Disclosure, Sales</i>						
Seller	n/a	3,200,000	2	0.083	533,333	6,400,000
Seller Agents	2,783,722	2,784,000	1	0.083	232,000	2,784,000
Offerors	n/a	6,400,000	1	0.083	533,333	6,400,000
Offeror Agents	2,463,754	4,928,000	1	0.083	410,667	4,928,000
<i>Disclosure, Rentals</i>						
Owner/Lessor	n/a	7,600,000	1	0.083	633,333	7,600,000
Owner/Lessor Agents	6,611,339	6,612,000	1	0.083	551,000	6,612,000
Tenants/Lessee	n/a	7,600,000	1	0.083	633,333	7,600,000
<i>Record Keeping</i>						
Seller	n/a	3,200,000	1	0.0083	26,560	
Seller Agents	2,783,722	2,784,000	1	0.0083	23,107	
Owner/Lessor	n/a	7,600,000	1	0.0083	63,080	
Owner/Lessor Agents	6,611,339	6,612,000	1	0.0083	54,880	
<b>Total</b>	11,858,815	39,124,000			6,937,330	45,566,704

Note: Record Keeping is only included in the total in the 'Total Burden' column to avoid double counting. Record keeping is performed as part of the disclosure response and is only performed when a housing unit is officially leased or sold. Records on offers not finalized are not kept. The Start-up values for 'Number of Small Businesses' and 'Total Number of Respondents' are not included in the Total because New Real Estate and Lessor Agents are a subset of the various agent categories and including the values under Start-up and Disclosure sections would result in double counting. The same Sellers are listed under Start-up and Disclosure, Sales but should only be counted once in the 'Total number of Respondents' column since they are the same people.

For a real estate agent or firm (NAICS 53121) to be classified as a small business, they must have less than 2 million dollars in average annual sales over the past three years based on standards set by the U.S. Small Business Administration (SBA). Lessors of real estate (NAICS 53111) average annual sales must be less than 7 million dollars to meet SBA standards. According to the *2009 National Association of Realtors Member Profile*, 67 percent of real estate agents had sales less than 2 million dollars. This percentage was applied to the appropriate categories in order to estimate the number of small business respondents. Separate data was not available for lessors of real estate so the same percentage was applied to both NAICS categories. Table 6.17 provided the detailed burden summary by respondent classification.

Due to the volatility in the housing sale and rental market, EPA considered the potential impact on estimated paperwork burden and cost if the sales or rentals were 5 percent greater than or 5 percent less than projected in the Supporting Statement. The total burden and cost could not simply be increased or decreased by 5 percent because not all burden and cost estimates are impacted by either sales or rentals. For example the number of new entrants for Real Estate Agents is based on growth in the NACIS code, not on the number of sales or leases. Also while sale and rental trends of housing are related there is not always a one to one relationship; therefore the increases and decreases were calculated separately instead of together.

A 5 percent change in housing sales results in the target housing changing by 200,000 units; or creating a range from 3.0 million housing units to 3.4 million housing units. The Supporting Statement assumed housing sales were 3.2 million units. Total Burden in the Supporting Statement was an estimated 6,937,330 hours at a cost of \$126,120,374. The 5 percent change would result in a change of 280,000 hours and \$4.4 million dollars. The total burden would range from 6,657,330 to 7,217,330 hours and the cost from \$121,720,374 to \$130,520,374. These ranges were calculated assuming no change in the rental estimate presented in the Supporting Statement.

A 5 percent change in target housing rentals results in a change of 400,000 units; or creating a range from 7.2 million units to 8.0 million units. The Supporting Statement assumed new housing rentals were 7.6 million units. Total Burden in the Supporting Statement was an estimated 6,937,330 hours at a cost of \$126,120,374. The 5 percent change would result in a change of 150,000 hours and \$2.4 million dollars. The total burden would range from 6,657,330 to 7,217,330 hours and the cost from \$123,720,374 to \$128,520,374. These ranges were calculated assuming no change in the sales estimate presented in the Supporting Statement.

#### Burden and Cost by Respondent Class

Table 6.18 presents the burden and costs by respondent class: real estate sales and rental agents; property owners and lessors; and offerors/buyers and lessees/tenants. The filing-related materials costs are assumed to fall on agents, with the remainder of materials costs falling on sellers and owners/lessors.

Table 6.18: Burden by Respondent and Class

<b>Respondent Class Activity</b>	<b>Burden Hours</b>	<b>Hourly Cost</b>	<b>Annual Cost</b>
Start-up burden for NAICS 5312	29,737	32	\$963,479
Start-up burden for NAICS 5311	12,967	26	\$341,551
Sales disclosure event burden for sellers agents	232,000	32	\$7,516,800
Sales disclosure event burden for offerors' agents	410,667	32	\$13,305,611
Rental disclosure event burden for agents	551,000	26	\$14,513,340
Record keeping burden for sales agents	23,107	32	\$748,667
Record keeping burden for rental agents	54,880	26	\$1,445,539
<i>Total burden and costs for all agents</i>	<i>1,314,358</i>		<i>\$38,834,987</i>
Start-up burden for sellers	3,200,000	13	\$43,104,000
Sales disclosure event burden for sellers	533,333	13	\$7,183,996
Rental disclosure event burden for owners/lessors	633,333	13	\$8,530,996
Record keeping burden for sellers	26,560	13	\$357,763
Record keeping burden for owners/lessors	63,080	13	\$849,688
Materials costs for sellers	n/a	n/a	\$5,655,168
Materials costs for owners/lessors	n/a	n/a	\$5,888,784
<i>Total burden and costs for sellers and owners/lessors</i>	<i>4,456,306</i>		<i>\$71,570,395</i>
Sales disclosure event burden for offerors	533,333	13	\$7,183,996
Rental disclosure event burden for tenants/lessees	633,333	13	\$8,530,996
<i>Total burden and costs for offerors and tenants/lessees</i>	<i>1,166,666</i>		<i>\$15,714,992</i>
<b>Total burden and costs for all respondents</b>	<b>6,937,330</b>		<b>\$126,120,374</b>

Unit Burden Hours

The burden of the disclosure rule affects six groups. Four of those groups consist of the individuals involved in sale and rental transactions, and two groups are agents acting on behalf of some of those individuals (Table 6.19). The individuals are assumed to bear their burden as individuals, but the burden on agents falls on the establishments at which they are employed. Those establishments are in NAICS code 53121 (offices of real estate agents and brokers) and NAICS code 53111 (lessors of residential buildings and dwellings). To determine the burden on those establishments, the total burden on those groups is divided by the number of establishments as estimated in the 2007 County Business Pattern Survey (Table 6.20).

**Table 6.19: Unit Burden Summary for Individuals**

	<b>Start-Up Burden</b>	<b>Disclosure Event Burden</b>	<b>Recordkeeping Burden</b>	<b>Total Burden Per Individual</b>
Sellers	1 hour	5 minutes	0.5 minutes	65.5 minutes
Offerors		5 minutes		5 minutes
Owners/lessors		5 minutes	0.5 minutes	5.5 minutes
Tenants/lessees		5 minutes		5 minutes

**Table 6.20: Unit Burden Summary for Establishments**

	<b>Agents for sellers and offerors NAICS 5312</b>	<b>Agents for owners/lessors NAICS 5311</b>
Aggregate start up burden	29,737 hours	12,967 hours
Aggregate disclosure event burden	642,667 hours	551,000 hours
Aggregate record-keeping burden	23,107 hours	54,880 hours
Total aggregate burden	695,511 hours	618,847 hours
Number of establishments	111,028 establishments	60,407 establishments
Unit burden	6.26 hours per establishment	10.24 hours per establishment

**6(e) Reasons for the Change in Burden**

There is a decrease of 807,286 hours (from 7,744,616 hours to 6,937,330 hours) in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects a gradual reduction in the annual number of real estate sales and residential property rentals involving target housing subject to the rule's requirements and an overall decrease in real estate sales. This change reflects an **adjustment** to the Agency's burden estimates arising from changes in the housing market.

## **6(f) Burden Statement**

The total annual burden for this ICR is estimated to be 6,937,330 hours and involves approximately 45.6 million annual responses, or an average of about 0.18 hours per response. These responses correspond to the various information activities related to an estimated 3,200,000 annual target housing sales and an estimated 7,600,000 annual target housing rentals.

Each of the estimated 3,200,000 target housing sales per year is assumed to involve one seller and two offerors. In 87 percent of the sales an agent represents the seller and in 77 percent of sales an agent represents the offerors (see section 6(d) above). Therefore there is an average of 5.41 respondents per housing unit sale or a total of 17,312,000 respondents.

Similarly, each of the estimated 7,600,000 target housing rentals per year is assumed to involve one lessor and one lessee, with the lessor represented by an agent in 87 percent of the cases (see section 6(d) above). Therefore there is an average of 2.87 respondents per housing unit rental or a total of 21,812,000 respondents.

Overall, there is an estimated 39,124,000 respondents per year.

The burden associated with the vast majority of these activities is estimated to be 5 minutes or less. For new sellers, lessors, and agents, the burden associated with one-time rule familiarization activities is estimated to be 1 hour per event. The burden associated both with disclosures and related acknowledgements by sellers, lessors, offerors, their respective agents, and tenants is estimated to be about 5 minutes per event. The burden associated with related recordkeeping activities by sellers, lessors, and their agents is estimated to be less than 1 minute per event. Although these paperwork requirements also apply to the Federal government, the PRA does not require EPA and HUD to estimate the potential burden or costs associated with the paperwork activities performed by Federal agencies.

Under the PRA, “burden” means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations in title 40 of the CFR, after appearing in the Federal Register, are listed in 40 CFR part 9 and included on the related collection instrument or form, if applicable. The OMB control numbers for HUD regulations appear with the regulations.

The Agency has established a public docket for this ICR under Docket ID No. EPA-HQ-OPPT-2010-0801, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Pollution Prevention and Toxics Docket in the EPA Docket Center (EPA/DC). The EPA/DC Public Reading Room is located in the EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the Pollution Prevention and Toxics Docket is (202)

**January 25, 2011**

566-0280. You may submit comments regarding the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, including the use of automated collection techniques.

Submit your comments, referencing Docket ID No. EPA-HQ-OPPT-2010-0801 and OMB Control No. 2070-0151, to (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7404T, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

**ATTACHMENTS TO THE SUPPORTING STATEMENT**

Attachments to the supporting statement are available in the public docket established for this ICR under docket identification number EPA-HQ-OPPT-2010-0801. These attachments are available for online viewing at [www.regulations.gov](http://www.regulations.gov) or otherwise accessed as described in section 6(f) of the supporting statement.

- Attachment 1:** 42 USC 4852d - **Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992**. Also available at online at the US House of Representatives' [US Code website](#)
- Attachment 2:** 40 CFR part 745, **Subpart F - Disclosure of Known Lead Based Paint and/or Lead Based Paint Hazards Upon Sale or Lease of Residential Property**. Also available online at the National Archives and Records Administration's [Electronic CFR Website](#)
- Attachment 3:** 24 CFR part 35, **Subpart H - Project-Based Assistance**. Also available online at the National Archives and Records Administration's [Electronic CFR Website](#)
- Attachment 4:** **Record of Consultations with Potential ICR Respondents**
- Attachment 5:** **Seller's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards (Sample Form)**. Also available at online at <http://epa.gov/lead/pubs/leadbase.htm>
- Attachment 6:** **Lessor's Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards (Sample Form)**. Also available at online at <http://epa.gov/lead/pubs/leadbase.htm>
- Attachment 7:** **Lead Hazard Information Pamphlet - "Protect Your Family From Lead In Your Home" (EPA747-K-99-001)**. Also available at online at <http://epa.gov/lead/pubs/leadbase.htm>
- Attachment 8:** **Display Related to OMB Control #2070-0151 -Listings of Related Regulations in 40 CFR 9.1**