Revision to the
4, 4'-Methylenedianiline in Construction Standard
Supporting Statement

The Standards Improvement Project–Phase III (SIP-III) is the third in a series of rulemaking actions to improve and streamline OSHA standards. The Standard Improvement Projects remove and revise individual requirements in standards that are confusing, outdated, duplicative or inconsistent. In May 2011, OSHA published the SIP-III final rule.

The SIP-III final rule removed from 25 of OSHA's substance-specific standards the requirements for employers to transfer employee exposure-monitoring and medical records to the National Institute for Occupational Safety and Health (NIOSH), and to notify NIOSH prior to disposal of such records. As a result of removing these transfer and notification requirements, OSHA is revising the 25 corresponding Information Collection Requests (ICRs)[1] to reduce the burden-hour and cost estimates associated with these provisions.

Edits to this supporting statement consists of strikethroughs and highlighted yellow text. These edits indicate removal of the requirement for employers to transfer records to NIOSH. Language deleted from this Supporting Statement is struck-through. Language added to the supporting statement appears highlighted in yellow.

1 [?]The section of the preamble in the final SIP-III rule titled, *Office of Management and Budget Review Under the Paperwork Reduction Act of 1995* lists the 27 ICRs being revised. The 27 ICRs are being revised as follows: 23 ICRs are revised as a result of removing the requirements for employers to transfer records to NIOSH; two ICRs are being revised to remove both the requirements for employers to transfer records to NIOSH and for employers to prepare training certifications; and, two additional ICRs are being revised to remove only training certifications.

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SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
4, 4'-METHYLENEDIANILINE IN CONSTRUCTION STANDARD
(29 CFR 1926.60)
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0183 (May 2011)[2]

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Occupational Safety and Health Act's (OSH Act) main objective 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). As one means in achieving this objective, the OSH Act specifically authorizes "the development and promulgation of occupational safety and health standards" (29 U.S.C. 651) to assure that employees will be furnished "employment and a place of employment . . . free from recognized hazards that are causing or likely to cause death or serious physical harm."

For toxic substances, the OSH Act contains specific statutory language. Thus, as appropriate, health standards must include provisions for monitoring and measuring worker exposure, medical examinations and other tests, control and technological procedures, suitable protective equipment, labels and other appropriate forms of warning, and precautions for safe use or exposure (29 U.S.C. 655 and 657). In addition, the OSH Act specifically mandates issuing "regulations requiring employers to maintain accurate records of worker exposures to potentially toxic materials or other harmful physical agents which are required to be monitored and measured," and further requires that workers exposed to concentrations over prescribed limits be notified of this fact, and of the corrective action being taken (29 U.S.C. 657).

2 The purpose of this supporting statement is to analyze and describe the burden hours and costs associated with provisions of the Standard that contain paperwork requirements; it does not provide information or guidance on how to comply with, or to enforce, the Standard.

Under the authority granted by the OSH Act, the Agency published a standard for the construction industry that regulated worker exposure to 4,4'-Methylenedianiline (MDA) ("1926.60[3]; the "Standard"). OSHA based the Standard on a determination that occupational exposure to MDA poses a health risk to workers. This determination showed that MDA exposure results in an increased risk of cancer and liver disease, and poses a dermal hazard as well. Items 2 and 12 below describe in detail the specific information collection requirements of the Standard.

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

The following are the collection of information requirements as stated in the Standard, followed by discussions indicating how, by whom, and for what purpose the information is used.

A. Communication among employers (§1926.60(d))

On multi-employer worksites, an employer performing work involving the application of MDA or materials containing MDA for which establishment of one or more regulated areas is required shall inform other employers on the site of the nature of the employer's work with MDA and of the existence of, and requirements pertaining to, regulated areas.

Purpose:

This requirement ensures that other employers at a multi-employer worksite receive the necessary information to prevent MDA exposure to their workers.

B. Emergency situations (§1926.60(e))

Written plan (§1926.60(e)(1))

§1926.60(e)(1)(i)

A written plan for emergency situations shall be developed for each construction operation where there is a possibility of an emergency. The plan shall include procedures where the employer identifies emergency escape routes for his employees at each construction site before the construction operation begins. Appropriate portions of the plan shall be implemented in the event of an emergency.

§1926.60(e)(1)(ii)

3 The Agency regulates occupational exposure to MDA in General Industry under a separate standard (i.e., 29 CFR 1910.1050; see the Information Collection Request, OMB Control No. 1218-0184).

The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped with the appropriate personal protective equipment and clothing as required in paragraphs (i) and (j) of this section until the emergency is abated.

§1926.60(e)(1)(iii)

The plan shall specifically include provisions for alerting and evacuating affected employees as well as the applicable elements prescribed in 29 CFR 1910.38 and 29 CFR 1910.39, "Employee emergency plans" and "Fire prevention plans," respectively.

Purpose:

Emergency and fire prevention plans provide workers with information to minimize MDA exposures during an emergency.

C. Exposure monitoring (§1926.60(f))

General (§1926.60(f)(1))

§1926.60(f)(1)(i)

Determinations of employee exposure shall be made from breathing zone air samples that are representative of each employee's exposure to airborne MDA over an eight (8) hour period. Determination of employee exposure to the STEL shall be made from breathing zone air samples collected over a 15 minute sampling period.

§1926.60(f)(1)(iii)

Where the employer can document that exposure levels are equivalent for similar operations in different work shifts, the employer shall only be required to determine representative employee exposure for that operation during one shift.

Purpose:

To assess worker MDA exposures, the employer has the duty to characterize the workplace by performing monitoring, and identifying tasks that exceed the STEL and PEL.

Initial monitoring (§1926.60(f)(2))

Each employer who has a workplace or work operation covered by this Standard shall perform initial monitoring to determine accurately the airborne concentrations of MDA to which employees may be exposed unless:

§1926.60(f)(2)(i) - the employer can demonstrate, on the basis of objective data, that the MDA-containing product or material being handled cannot cause exposures above the standard's action level, even under worst-case release conditions; or

§1926.60(f)(2)(ii) - the employer has historical monitoring or other data demonstrating that exposures on a particular job will be below the action level.

Purpose:

Such monitoring allows employers to identify areas and operations that may require additional reduction in airborne MDA to meet the PEL. Initial exposure-monitoring results also assist employers in determining the need for engineering controls, implementing or modifying work practices, and selecting appropriate personal protection to prevent workers from overexposure to MDA.

Periodic monitoring and monitoring frequency (§1926.60(f)(3))

§1926.60(f)(3)(i)

If the monitoring required by paragraph (f)(2) of this section reveals employee exposure at or above the action level, but at or below the PELs, the employer shall repeat such monitoring for each such employee at least every six (6) months.

§1926.60(f)(3)(ii)

If the monitoring required by paragraph (f)(2) of this section reveals employee exposure above the PELs, the employer shall repeat such monitoring for each such employee at least every three (3) months.

§1926.60(f)(3)(iv)

The employer may alter the monitoring schedule from every three months to every six months for any employee for whom two consecutive measurements taken at least 7 days apart indicate that the employee exposure has decreased to below the PELs but above the action level.

Purpose:

Periodic exposure monitoring allows employers to determine if modifications in processes, materials, or environmental conditions could result in MDA levels exceeding the PEL. Periodic exposure monitoring also enables employers to evaluate the effectiveness of control methods. In addition, these measurements remind both the employer and workers of the continuing need to protect against the hazards that could result from worker overexposure.

Additional monitoring (§1926.60(f)(5))

The employer shall institute the exposure monitoring required under paragraphs (f)(2) and (f)(3) of this section when there has been a change in production process, chemicals present, control equipment, personnel, or work practices which may result in new or additional exposures to MDA, or when the employer has any reason to suspect a change which may result in new or additional exposures.

Purpose:

Changes in production process, chemicals present, control equipment, personnel, or work practices may lead to increases in employee exposure levels. Additional monitoring ensures that the workplace is safe, and also alerts employers of the need to increase worker protection such as providing appropriate personal protective equipment or the need to implement engineering controls.

Employee notification of monitoring results (§1926.60(f)(7))

§1926.60(f)(7)(i)

The employer must, as soon as possible but no later than 5 working days after the receipt of the results of any monitoring performed under this section, notify each affected employee of these results either individually in writing or by posting the results in an appropriate location that is accessible to employees.

§1926.60(f)(7)(ii)

The written notification required by paragraph (f)(7)(i) of this section shall contain the corrective action being taken by the employer or any other protective measures which have been implemented to reduce the employee exposure to or below the PELs, wherever the PELs are exceeded.

Purpose:

Consistent with Section 8(c)(3) of the OSH Act, every worker has the right to know what their exposure level is and whether it is above or below the action level. Moreover, since the permissible exposure level is one that also considers feasibility and, therefore, is not necessarily a “safe” level, it is necessary for the worker to know the level of MDA to which they were exposed.

Additionally, when exposures are above the PEL, the employer must also state in the notification what corrective action the employer is going to take to reduce the exposure level. This is necessary to assure workers that the employer is making every effort to furnish them with a safe and healthy work environment as required by Section 8(c)(3) of the OSH Act.

Visual monitoring (§1926.60(f)(8))

The employer shall make routine inspections of employee hands, face and forearms potentially exposed to MDA. Other potential dermal exposures reported by the employee must be referred to the appropriate medical personnel for observation. If the employer determines that the employee has been exposed to MDA the employer shall:

> *§1926.60(f)(8)(i)* - Determine the source of exposure;
>
> *§1926.60(f)(8)(ii)* - Implement protective measures to correct the hazard; and
>
> *§1926.60(f)(8)(iii)* - Maintain records of the corrective actions in accordance with paragraph (o) of this section.

Purpose:

Visual monitoring ensures timely recognition and treatment of workers harmed by exposure to MDA, thus reducing the possibility of permanent injury.

D. Methods of compliance (§1926.60(h))

Compliance program (§1926.60(h)(5))

§1926.60(h)(5)(i)

The employer shall establish and implement a written program to reduce worker exposure to or below the PELs by means of engineering and work practice controls, as required by paragraph (h)(1) of this section, and by use of respiratory protection where permitted under this section.

§1926.60(h)(5)(ii)

Upon request this written program shall be furnished for examination and copying to the Assistant Secretary,[4] the Director,[5] affected workers and designated worker representatives.

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4 "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

5 "Director" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

The employer shall review and, as necessary, update such plans at least once every 12 months to make certain they reflect the current status of the program.

Purpose:

This provision requires the employer to evaluate worker exposure and establish an organized and complete program for reducing worker exposures at or below the PEL. Revising and updating the written program reminds employers to implement and maintain the exposure-control methods required in the Standard.

E. Methylenedianiline **(§1926.60(i))**

General (§1926.60(i)(1))

For employees who use respirators required by this section, the employer must provide each employee an appropriate respirator that complies with the requirements of this paragraph. Respirators must be used during:

> §1926.60(i)(1)(i) - Periods necessary to install or implement feasible engineering and work-practice controls.
>
> §1926.60(i)(1)(ii) - Work operations, such as maintenance and repair activities and spray-application processes, for which engineering and work-practice controls are not feasible.
>
> §1926.60(i)(1)(iii) - Work operations for which feasible engineering and work-practice controls are not yet sufficient to reduce employee exposure to or below the PELs.
>
> §1926.60(i)(1)(iv) - Emergencies.

Respiratory program (§1926.60(i)(2))

The employer must implement a respiratory protection program in accordance with Sec. 1910.134 (b) through (d) (except (d)(1)(iii)), and (f) through (m), which covers each employee required by this section to use a respirator.

Purpose:

OSHA's Respiratory Protection Standard assists employers in protecting the health of workers exposed to airborne contaminants and biological agents. The respiratory protection collections of information are contained in the Respiratory Protection ICR, OMB Control Number 1218-0099. The Respiratory Protection ICR provides the justification, purpose, and burden hours and cost estimates for these provisions.

F. Protective work clothing and equipment (§1926.60(j))

Removal and storage (§1926.60(j)(2))

§1926.60(j)(2)(v)

Containers of MDA-contaminated protective work clothing or equipment which are to be taken out of decontamination areas or the workplace for cleaning, maintenance, or disposal, shall bear labels warning of the hazards of MDA.

Purpose:

This requirement prevents MDA exposure of downstream workers who handle the protective clothing and equipment. Example activities would include cleaning, maintaining, repairing, or disposing of clothing and equipment possibly contaminated with MDA.

Cleaning and replacement (§1926.60(j)(3)(iv) and (j)(3)(v))

§1926.60(j)(3)(iv)

Any employer who gives MDA-contaminated clothing to another person for laundering shall inform such person of the requirement to prevent the release of MDA.

§1926.60(j)(3)(v)

The employer shall inform any person who launders or cleans protective clothing or equipment contaminated with MDA of the potentially harmful effects of exposure.

Purpose:

Personnel, who may come into contact with MDA contaminated clothing, must be informed as well as protected from the possible hazards associated with MDA exposure.

G. Communication of hazards to employees (§1926.60(l))

Signs and labels (§1926.60(l)(1))

§1926.60(l)(1)(i)

The employer shall post and maintain legible signs demarcating regulated areas and entrances or access ways to regulated areas that bear the following legend:

DANGER
MDA
MAY CAUSE CANCER
LIVER TOXIN
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING
MAY BE REQUIRED TO BE WORN IN THIS AREA

§1926.60(l)(1)(ii)

The employer shall ensure that labels or other appropriate forms of warning are provided for containers of MDA within the workplace. The labels shall comply with the requirements of 29 CFR 1910.1200(f) and shall include one of the following legends:

§1926.60(l)(1)(ii)(A) - For pure MDA

DANGER
CONTAINS MDA
MAY CAUSE CANCER
LIVER TOXIN

§1926.60(l)(1)(ii)(B) - For mixtures containing MDA

DANGER
CONTAINS MDA
CONTAINS MATERIALS WHICH MAY CAUSE CANCER
LIVER TOXIN

Purpose:

Signs warn workers that they can enter a regulated area only if they have authority to do so and a specific need exists to enter the area. Signs warn workers that they are in or near a hazardous area, and act as a supplement to reinforce the hazard-recognition training workers receive under the Standard. Additionally, warning labels inform downstream employers and workers of the hazards associated with MDA, and that they may need to implement special practices to prevent exposure to the substance. Furthermore, hazard labels alert other employers who, in the absence of such labels, may not know that MDA is present in their workplace and serve as a reminder that they must comply with the Standard.

The provisions containing the paperwork requirements associated with signs and labels specify the specific language for these materials. Therefore, OSHA is taking no burden for these provisions since the Agency is providing the information needed by employers to meet these requirements. (See "Controlling Paperwork Burden on the Public," (5 CFR 1320.3(c)(2)).

Material safety data sheets (MSDS) (§1926.60(l)(2))

Employers shall obtain or develop, and shall provide access to their workers, to a material safety data sheet (MSDS) for MDA. The burden hours and costs for MSDS are included in the Hazard Communication ICR, OMB Control Number 1218-0072.

Purpose:

The MSDS serves as the main source of information to workers and downstream employers who must be provided with an MSDS if MDA is produced and shipped out of a plant. In addition, the MSDS serves as the basic source of information on the hazards of MDA essential to the training provisions required in the Standard and other applicable health standards.

Information and training (§1926.60(l)(3))

§1926.60(l)(3)(i)

The employer shall provide employees with information and training on MDA, in accordance with 29 CFR 1910.1200(h), at the time of initial assignment and at least annually thereafter.

§1926.60(l)(3)(ii)

In addition to the information required under 29 CFR 1910.1200, the employer shall:

> §1926.60(l)(3)(ii)(A) - Provide an explanation of the contents of this section, including appendices A and B, and indicate to employees where a copy of the standard is available;
>
> §1926.60(l)(3)(ii)(B) - Describe the medical surveillance program required under paragraph (n) of this section, and explain the information contained in appendix C of the section; and
>
> §1926.60(l)(3)(ii)(C) - Describe the medical removal provision required under paragraph (n) of this section.

Purpose:
Training is essential to inform workers of the health hazards of MDA exposure, and to provide them with the understanding required to minimize health hazards. In addition, training provides information to workers that enable them to recognize how and where MDA exposure occurs, and what steps to take, including work practices, to avoid or limit such exposure. Another benefit of training is that it serves to explain and reinforce the information presented to workers on warning signs and labels. It is necessary for workers to understand the information, and be aware of the actions they must take to avoid or minimize MDA exposure.

Access to training materials (§1926.60(l)(4))

§1926.60(l)(4)(i)

The employer shall make readily available to all affected employees, without cost, all written materials relating to the employee training program, including a copy of this regulation.

§1926.60(l)(4)(ii)

The employer shall provide to the Assistant Secretary and the Director, upon request, all information and training materials relating to the employee information and training program.

Purpose:

The requirement to provide the training materials to OSHA compliance officers ensures that the training materials are correct and that they meet the requirements of the provision.

H. Medical surveillance (§1926.60(n))

General (§1926.60(n)(1))

§1926.60(n)(1)(i)

The employer shall make available a medical surveillance program for employees exposed to MDA under the following circumstances:

> §1926.60(n)(1)(i)(A) - Employees exposed at or above the action level for 30 or more days per year;
>
> §1926.60(n)(1)(i)(B) - Employees who are subject to dermal exposure to MDA for 15 or more days per year;
>
> §1926.60(n)(1)(i)(C) - Employees who have been exposed in an emergency situation;

§1926.60(n)(1)(i)(D) - Employees whom the employer, based on results from compliance with paragraph (f)(8), has reason to believe are being dermally exposed; and §1926.60(n)(1)(i)(E) - Employees who show signs or symptoms of MDA exposure.

Initial examinations (§1926.60(n)(2))

§1926.60(n)(2)(i)

Within 150 days of the effective date of this standard, or before the time of initial assignment, the employer shall provide each employee covered by paragraph (n)(1)(i) of this section with a medical examination including the following elements:

§1926.60(n)(2)(i)(A) - A detailed history which includes:

§1926.60(n)(2)(i)(A)(1) - Past work exposure to MDA or any other toxic substances;

§1926.60(n)(2)(i)(A)(2) - A history of drugs, alcohol, tobacco, and medication routinely taken (duration and quantity); and

§1926.60(n)(2)(i)(A)(3) - A history of dermatitis, chemical skin sensitization, or previous hepatic disease.

§1926.60(n)(2)(i)(B) - A physical examination which includes all routine physical examination parameters, skin examination, and examination for signs of liver disease.

§1926.60(n)(2)(i)(C) - Laboratory tests including:

§1926.60(n)(2)(i)(C)(1) - Liver function tests and (2) Urinalysis

§1926.60(n)(2)(i)(D) - Additional tests as necessary in the opinion of the physician.

§1926.60(n)(2)(ii)

No initial medical examination is required if adequate records show that the employee has been examined in accordance with the requirements of this section within the previous six months prior to the effective date of this standard or prior to the date of initial assignment.

Periodic examinations (§1926.60(n)(3))

§1926.60(n)(3)(i)

The employer shall provide each employee covered by this section with a medical examination at least annually following the initial examination. These periodic examinations

shall include at least the following elements:

> §1926.60(n)(3)(i)(A) - A brief history regarding any new exposure to potential liver toxins, changes in drug, tobacco, and alcohol intake, and the appearance of physical signs relating to the liver, and the skin;
>
> §1926.60(n)(3)(i)(B) - The appropriate tests and examinations including liver function tests and skin examinations; and
>
> §1926.60(n)(3)(i)(C) - Appropriate additional tests or examinations as deemed necessary by the physician.

Emergency examinations (§1926.60(n)(4))

If the employer determines that the employee has been exposed to a potentially hazardous amount of MDA in an emergency situation under paragraph (e) of this section, the employer shall provide medical examinations in accordance with paragraph (n)(3)(i) and (ii) of this section. If the results of liver function testing indicate an abnormality, the employee shall be removed in accordance with paragraph (n)(9) of this section. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

Additional examinations (§1926.60(n)(5))

Where the employee develops signs and symptoms associated with exposure to MDA, the employer shall provide the employee with an additional medical examination including liver function tests. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

Purpose:

The purpose of medical surveillance is the prevention or detection of abnormalities that may occur in some MDA-exposed workers early enough to prevent cancer, liver disease, and dermal hazards from developing, or to provide earlier treatment for these conditions. OSHA considers regular medical surveillance for MDA workers exposed at or above the action level to be necessary.

Multiple physician review mechanism (§1926.60(n)(6))

§1926.60(n)(6)(ii)

The employer shall promptly notify a worker of the right to seek a second medical opinion after each occasion that an initial physician conducts a medical examination or consultation pursuant to this section. The employer may condition its participation in, and payment for, the multiple physician review mechanism upon the worker doing the following within fifteen (15) days after receipt of the foregoing notification, or receipt of the initial physician's written opinion, whichever is later:

> §1926.60(n)(6)(ii)(A) - The employee informing the employer that he or she intends to seek a second medical opinion, and
>
> §1926.60(n)(6)(ii)(B) - The employee initiating steps to make an appointment with a second physician.

Purpose:

It is necessary to require a multiple-physician review mechanism. This requirement ensures workers will not refuse medical examinations because of fear their jobs could be terminated.

Information provided to the examining physician (§1926.60(n)(7))

§1926.60(n)(7)(i)

The employer shall provide the following information to the examining physician:

> §1926.60(n)(7)(i)(A) - A copy of this regulation and its appendices;
>
> §1926.60(n)(7)(i)(B) - A description of the affected employee's duties as they relate to the employee's potential exposure to MDA;
>
> §1926.60(n)(7)(i)(C) - The employee's current actual or representative MDA exposure level;
>
> §1926.60(n)(7)(i)(D) - A description of any personal protective equipment used or to be used; and
>
> §1926.60(n)(7)(i)(E) - Information from previous employment related medical examinations of the affected employee.

§1926.60(n)(7)(ii)

The employer shall provide the foregoing information to a second physician under this section

upon request either by the second physician, or by the employee.

Purpose:

Making this information available to physicians assists them in evaluating the worker's health and fitness for specific job assignments involving MDA exposure. As noted earlier, if symptoms of organic damage appear, a physician often needs this information to make an accurate diagnosis of the new condition, its apparent cause, and the course of treatment required.

Physician's written opinion (§1926.60(n)(8))

§1926.60(n)(8)(i)

For each examination under this section, the employer shall obtain, and provide the employee with a copy of, the examining physician's written opinion within 15 days of its receipt. The written opinion shall include the following:

> §1926.60(n)(8)(i)(A) - The occupationally pertinent results of the medical examination and tests;
>
> §1926.60(n)(8)(i)(B) - The physician's opinion concerning whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to MDA;
>
> §1926.60(n)(8)(i)(C) - The physician's recommended limitations upon the employee's exposure to MDA or upon the employee's use of protective clothing or equipment and respirators; and
>
> §1926.60(n)(8)(i)(D) - A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from MDA exposure which require further explanation or treatment.

Purpose:

The purpose of providing the physician's written opinion to the employer with medical information is to aid in the initial placement of workers, and to assess the worker's ability to use protective clothing and equipment. The physician's written opinion also informs the employer about whether the worker has a condition indicating overexposure to MDA. The requirement that the physician's opinion be in writing permits retention of the information for later reference. Providing workers with a copy of the physician's written opinion informs them of the medical-examination results so that they can assist in determining the need for, and evaluating the effectiveness of treatment or other interventions.

Medical removal (§1926.60(n)(9))

§1926.60(n)(9)(v)(C)

Follow-up medical surveillance during the period of employee removal or limitations.

During the period of time that an employee is removed from normal exposure to MDA or otherwise limited, the employer may condition the provision of medical removal protection benefits upon the employee's participation in follow-up medical surveillance made available pursuant to this section.

Purpose:

Medical removal prevents medical impairments induced or exacerbated by MDA from becoming worse. In addition, medical removal allows workers who have these impairments an opportunity to recuperate and return to their former jobs.

I. Recordkeeping (§1926.60(o))

Objective data for exempted operations (§1926.60(o)(1))

§1926.60(o)(1)(i)

Where the employer has relied on objective data that demonstrate that products made from or containing MDA are not capable of releasing MDA or do not present a dermal exposure problem under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under paragraph (f)(2) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

§1926.60(o)(1)(ii) - The record shall include at least the following information:

§1926.60(o)(1)(ii)(A) - The product qualifying for exemption;

§1926.60(o)(1)(ii)(B) - The source of the objective data;

§1926.60(o)(1)(ii)(C) - The testing protocol, results of testing, and/or analysis of the material for the release of MDA;

§1926.60(o)(1)(ii)(D) - A description of the operation exempted and how the data support the exemption; and

§1926.60(o)(1)(ii)(E) - Other data relevant to the operations, materials, processing, or employee exposures covered by the exemption.

§1926.60(o)(1)(iii)

The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

Purpose:

Documenting and retaining objective data demonstrates the appropriateness of an employer's reliance on objective data in lieu of initial monitoring. Maintaining a record of objective data determinations will permit OSHA to ascertain whether compliance with the Standard has been achieved.

Historical monitoring data (§1926.60 (o)(2))

§1926.60(o)(2)(i)

Where the employer has relied on historical monitoring data that demonstrate that exposures on a particular job will be below the action level to exempt such operations from the initial monitoring requirements under paragraph (f)(2) of this section, the employer shall establish and maintain an accurate record of historical monitoring data reasonably relied upon in support of the exception.

§1926.60(o)(2)(ii)

The record shall include information that reflect the following conditions:

§1926.60(o)(2)(ii)(A) - The data upon which judgments are based are scientifically sound and were collected using methods that are sufficiently accurate and precise;

§1926.60(o)(2)(ii)(B) - The processes and work practices that were in use when the historical monitoring data were obtained are essentially the same as those to be used during the job for which initial monitoring will not be performed;

§1926.60(o)(2)(ii)(C) - The characteristics of the MDA-containing material being handled when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed;

§1926.60(o)(2)(ii)(D) - Environmental conditions prevailing when the historical monitoring data were obtained are the same as those on the job for which initial monitoring will not be performed; and

§1926.60(o)(2)(ii)(E) - Other data relevant to the operations, materials, processing, or employee exposures covered by the exception.

§1926.60(o)(2)(iii)

The employer shall maintain this record for the duration of the employer's reliance upon such historical monitoring data.

Purpose:

This information collection requirement discourages abuse of the exemption. Under the recordkeeping provisions of the Standard, notably paragraph (o)(7)(ii), workers and their representatives have access to the information and data used by an employer to determine whether the exemption applies to their jobs. Such access assures workers that the determinations are reasonable and the exemption is warranted. Additionally, maintaining these records permits OSHA to ascertain whether the employer is complying with the requirements of this provision.

Exposure measurements (§1926.60(o)(4))

§1926.60(o)(4)(i)

The employer shall keep an accurate record of all measurements taken to monitor employee exposure to MDA.

§1926.60(o)(4)(ii)

This record shall include at least the following information:

§1926.60(o)(4)(ii)(A) - The date of measurement;

§1926.60(o)(4)(ii)(B) - The operation involving exposure to MDA;

§1926.60(o)(4)(ii)(C) - Sampling and analytical methods used and evidence of their accuracy;

§1926.60(o)(4)(ii)(D) - Number, duration, and results of samples taken;

§1926.60(o)(4)(ii)(E) - Type of protective devices worn, if any; and

§1926.60(o)(4)(ii)(F) - Name, social security number, and exposure of the employees whose exposures are represented.

§1926.60(o)(4)(iii)

The employer shall maintain this record for at least thirty (30) years, in accordance with 29 CFR 1926.33.

Medical surveillance (§1926.60(o)(5))

§1926.60(o)(5)(i)

The employer shall establish and maintain an accurate record for each employee subject to medical surveillance by paragraph (n) of this section, in accordance with 29 CFR 1926.33.

§1926.60(o)(5)(ii)

The record shall include at least the following information:

§1926.60(o)(5)(ii)(A) - The name and social security number of the employee;

§1926.60(o)(5)(ii)(B) - A copy of the employee's medical examination results, including the medical history, questionnaire responses, results of any tests, and physician's recommendations.

§1926.60(o)(5)(ii)(C) - Physician's written opinions;

§1926.60(o)(5)(ii)(D) - Any employee medical complaints related to exposure to MDA; and

§1926.60(o)(5)(ii)(E) - A copy of the information provided to the physician as required by paragraph (n) of this section.

§1926.60(o)(5)(iii)

The employer shall ensure that this record is maintained for the duration of employment plus thirty (30) years, in accordance with 29 CFR 1926.33.

§1926.60(o)(5)(iv)

A copy of the employee's medical removal and return to work status.

Purpose:

Documentation and maintenance of the medical-examination results provide a continuous record of worker health. Physicians use these records to determine the extent to which workers, since their last examination, experience health effects related to MDA exposure. Further, if symptoms of organic damage appear, the physician often needs information about a worker's previous medical conditions to make an accurate diagnosis of the new condition, ascertain its apparent cause, and identify a course of treatment. Medical records also permit workers to determine whether they need treatment or to evaluate the effectiveness of their employer's exposure-reduction program.

Training records (§1926.60(o)(6))

The employer shall maintain all employee training records for one (1) year beyond the last date of employment.

Purpose:

This requirement allows employers and workers to determine when to update training, and it permits OSHA to ascertain whether workers are receiving appropriate and timely training.

Availability (§1926.60(o)(7))

§1926.60(o)(7)(i)

The employer, upon written request, shall make all records required to be maintained by this section available to the Assistant Secretary and the Director for examination and copying.

§1926.60(o)(7)(ii)

The employer, upon request, shall make any exposure records required by paragraphs (f) and (n) of this section available for examination and copying to affected employees, former employees, designated representatives, and the Assistant Secretary, in accordance with 29 CFR 1926.33(a)-(e) and (g)-(i).

§1926.60(o)(7)(iii)

The employer, upon request, shall make employee medical records required by paragraphs (n) and (o) of this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the Assistant Secretary, in accordance with 29 CFR 1926.33.

Purpose:

The OSHA compliance officer uses these records to assess employer compliance with the pertinent requirements of the Standard, while NIOSH may compile these records for research purposes. Workers and worker representatives use exposure-monitoring and medical-surveillance records to assess worker medical status over the course of employment, to evaluate the effectiveness of the employer's exposure-reduction program, and for other reasons.

Transfer of records (§1926.60(o)(8))

§1926.60(o)(8)~~(i)~~

The employer shall comply with the requirements concerning transfer of records set forth in 29 ~~CFR 1926.33(h).~~ 29 CFR 1910.1020(h).

~~*§1926.60(o)(8)(ii)*~~

~~Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, the employer shall notify the Director at least 90 days prior to disposal and, upon request, transmit them to the Director.~~

~~**Purpose**:~~

~~Employers transfer records to successor employers and NIOSH to ensure workers have access to historical records of exposure monitoring and medical surveillance.~~

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 automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology (e.g., electronic submission of responses), when establishing and maintaining the required records. The Agency wrote the paperwork requirements of the Standard in performance-oriented language, i.e., in terms of what data to collect, not how to record the data.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The 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). At this time, there is no indication that any alternate information source available.

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

The information collection does not have a significant impact on a substantial number of small entities.

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

The Agency believes that the information collection frequencies required by the Standard are the minimum frequencies necessary to effectively monitor the exposure and health status of workers exposed to MDA, 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. Accordingly, if employers do not perform the required information collections, or delay in providing this information, workers will have an increased probability of developing cancer, liver dysfunction, and dermal injuries because of their MDA exposures.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **equiring 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.**

- **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.**

Under paragraph (f)(7) of the Standard, employers must notify each worker of the exposure-monitoring results as soon as possible but no later than 5 working days after receiving these results. Employers may notify workers either individually in writing, or by posting the monitoring results in an appropriate location that is accessible to affected exposed workers. Paragraph (n)(6)(ii) requires employer's to promptly notify workers of their right to seek a second medical opinion after each initial medical examination or consultation. Workers may be required to fulfill certain conditions within 15 days to participate in the second opinion. Also, if the exposure-monitoring results exceed the PEL, the employer must inform the exposed workers of the corrective action the employer is taking to prevent overexposure to MDA. In addition, paragraph (n)(8)(i) of the Standard requires employers to provide a copy of the physician's written opinion to the covered worker within 15 days after the employer receives the opinion.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

The SIP-III notice of proposed rulemaking (NPRM; 75 FR 38645) proposed to revoke existing collection-of-information (paperwork) requirements contained in 27 existing Information Collection Requests (ICRs) approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA-95). OSHA prepared and submitted one ICR for the SIP-III proposal to OMB for review in accordance with 44 U.S.C. 3507(d). For the SIP III final, OSHA is submitting separate ICRS to OMB.

The NPRM proposed to remove provisions that require employers to transfer employee exposure-monitoring and medical records to NIOSH and for employers to contact NIOSH prior to disposing of such records. No comments were received opposing this revision; therefore, OSHA is removing §1926.60(o)(8)(ii) and the associated burden hours and costs from this ICR.

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

No payments or gifts will be provided to the respondents.

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

As medical records contain personal information, OSHA and NIOSH have taken steps to assure that the medical data in these records are kept confidential. Agency practices and procedures governing access to worker medical records are contained in 29 CFR 1913.10 (attached).

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.

There are no provisions in the Standard requiring sensitive information.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage-rate categories.**

Burden Hour and Cost Determinations

According to the Preliminary Regulatory Impact Analysis (PRIA)[6] completed for the proposed Standard, worker exposure to MDA occurs while applying coatings containing MDA to steel, concrete, and other construction-related surfaces. The Mediated Rulemaking Advisory Committee ("Committee") convened to negotiate the Standard, as well as OSHA, made a series of reasonable assumptions in estimating employee exposure to MDA. In this regard, the Committee and OSHA assumed that 66 establishments, each employing six employees, apply MDA-based coatings. The National Paint and Coatings Association stated that the use of MDA-based products is rarely used in paint and coating products. To be conservative, however, OSHA has based its burden hour and cost estimates on a population-at-risk 50

6 The PRIA was not changed, and was also the final economic analysis for the Standard.

percent lower than the previously estimated. OSHA now assumes that workers at 33 establishments, each with 10 job sites each year at which coatings are applied, or a total of 330 job sites annually where potential exposures might occur. OSHA originally assumed that, during these applications, 400 employees receive exposure to the MDA-based coatings each year. The Agency now estimates that one-half this number, or 200 workers, receive exposures.

The Agency adopted the mean wage rates from *Occupational Employment Statistics, May 2007 National Industry-Specific Occupational Employment and Wage Estimator: NAICS 238320 – Painting and Wall Covering Contractors.* Total compensation for these occupational categories includes an adjustment of 30.28 percent (*Employer Costs for Employee Compensation Summary, May 2008*) for fringe benefits; this figure represents the average level of fringe benefits in the private sector. The costs of labor used in this analysis are, therefore, estimates of total hourly compensation. These hourly wages are:

- First-Line Supervisors/Managers of Construction Trades (SOC 47-1011): $34.60
- Painters, Construction and Maintenance (SOC 47-2141): $22.21
- Healthcare Practitioner and Technical Occupations (SOC 29-0000): $34.52
- Secretaries (SOC 43-6014): $17.90

Table 1 below provides a summary of the burden hour and cost estimates for the information collection requirements specified by the Standard.

Table 1

Summary of Annual Burden Hour and Cost Estimates

Information Collection Requirement	Current Burden Hours	Proposed Burden Hours	Adjustment (Hours)	Estimated Cost
A. Communication among employers	**83**	**83**	**0**	**$2,872**
B. Emergency situations				
Written plan	**50**	**50**	**0**	**$1,446**
C. Exposure monitoring				
Initial monitoring	**66**	**66**	**0**	**$2,284**
Periodic monitoring and monitoring frequency, and additional monitoring	**66**	**66**	**0**	**$2,284**

Employee notification of monitoring results	**5**	**5**	**0**	**$90**
Visual monitoring	**17**	**17**	**0**	**$588**
D. Methods of compliance				
Compliance program	**50**	**50**	**0**	**$1,730**
F. Protective work clothing and equipment				
Removal and storage	**0**	**0**	**0**	**$0**
Cleaning and replacement	**0**	**0**	**0**	**$0**
G. Communication of hazards to employees				
Signs and labels	**0**	**0**	**0**	**$0**
Information and training, and access to training materials	**43**	**43**	**0**	**$1,488**
H. Medical surveillance				
Initial examinations	**192**	**192**	**0**	**$4,264**
Periodic examinations	**300**	**300**	**0**	**$6,663**
Emergency examinations, and additional examinations	**3**	**3**	**0**	**$67**
Multiple physician review mechanism	**3**	**3**	**0**	**$67**
Information provided to the examining physician	**27**	**27**	**0**	**$483**
Physician's written opinion	**27**	**27**	**0**	**$483**
Medical removal	**0**	**0**	**0**	**$0**
I. Recordkeeping				
Objective data for exempted operations, and historical	**50**	**50**	**0**	**$1,730**

monitoring data				
Exposure measurements	**5**	**5**	**0**	**$90**
Medical surveillance	**27**	**27**	**0**	**$483**
Training records	**12**	**12**	**0**	**$215**
Availability	**3**	**3**	**0**	**$57**
Transfer of records*	**1**	**0**	**1**	**~~$18~~ $0**
TOTALS	**1,030**	**1,029**	1	**~~$27,402~~ $27,384**

***Indicates removal to 29 CFR part 1926.60(o)(8)(ii) requiring employers to comply with transfering employee exposure-monitoring and medical records to the National Institute for Occupational Safety and Health (NIOSH) or notifying NIOSH prior to disposal of such records.

The following sections summarize the methodology used for estimating the number of burden hours and costs resulting from the information collection requirements of the MDA standard[7].

A. Communication among employers (§1926.60(d))

OSHA assumes that each of the 330 job sites in which employers apply MDA-based coatings is a multi-employer worksite. The Agency estimates a manager takes 15 minutes (.25 hour) to inform other employers at each of these job sites, resulting in the following total annual burden hour and cost estimates:

Burden hours: 330 job sites x .25 hour = 83 hours
Cost: 83 hours x $34.60 = $2,872

B. Emergency situations (§1926.60(e))

Written plan (§1926.60(e)(1))

According to the PRIA, a supervisor takes one hour (1 hour) to review and revise a written emergency plan for each establishment (for a total of 33 hours for the 33 establishments covered by the Standard), while a secretary spends one-half hour (.50 hour) typing the revised plan and distributing it to job sites where there is a potential for emergencies. OSHA estimates that 10% of the 330 job sites, or 33 jobsites, have written emergency plans. Therefore, the total yearly burden hour and cost estimate for this provision is:

7 Burden hour and cost estimates below are rounded to the nearest hour or dollar.

Burden hours: (33 establishments x 1 hour) + (33 jobsites x .5 hour) = 50 hours
Cost: (33 hours x $34.60) + (17 hours x $17.90) = $1,446

C. Exposure monitoring (§1926.60(f))

Based on the PRIA, an occupational health and safety technician takes two hours (2 hours) to distribute and attach portable air-sampling pumps to workers, and to record the sampling information (e.g., the name, social security number, and exposure level of workers represented by the sample).

Initial monitoring (§1926.60(f)(2))

The Agency estimates that each establishment samples 10% (33) of the 330 job sites each year, resulting in a total annual burden hour and cost estimate of:

Burden hours: 33 job sites x 2 hours = 66 hours
Cost: 66 hours x $34.60 = $2,284

Periodic monitoring and monitoring frequency, and additional monitoring (§1926.60(f)(3) and (f)(5))

The PRIA assumed that each employer, on average, monitors one worker (for a total of 33 workers across the 33 establishments) each year under these provisions. Periodic monitoring is unlikely because, while workers may be exposed above the PEL due to the short-term exposure, quarterly exposure monitoring would be uncommon because the site projects are of short duration (less than three months). Accordingly, the total yearly burden-hour and cost estimates for these exposure-monitoring requirements are:

Burden hours: 33 workers x 2 hours = 66 hours
Cost: 66 hours x $34.60 = $2,284

Employee notification of monitoring results (§1926.60(f)(7))

The Agency assumes that a secretary takes five minutes (.08 hour) to compile and post the written monitoring results, and performs this task twice a year as required by paragraph (f)(3) of the Standard ("Periodic monitoring and monitoring frequency"). Accordingly, OSHA estimates that the total annual burden hours and costs resulting from this requirement are:

Burden hours: 33 establishments x 2 postings x .08 hour = 5 hours
Cost: 5 hours x $17.90 = $90

Visual monitoring (§1926.60(f)(8))

The Agency believes that each establishment visually inspects workers for MDA exposure once a year, and that an occupational health and safety specialist requires one-half hour (.50 hour) to conduct an inspection, and to establish and maintain a record of corrective actions. Therefore, the total annual burden hours and cost estimated for this task are:

Burden hours: 33 establishments x .50 hour = 17 hours
Cost: 17 hours x $34.60 = $588

D. Methods of compliance (§1926.60(h))

Compliance program (§1926.60(h)(5))

For the purposes of estimating burden hours, OSHA assumes that an occupational health and safety specialist at each of the 33 establishments spends one and one-half hours (1.50 hours) once a year reviewing and updating existing compliance plans. This requirement results in the following estimated total annual burden hours and cost:

Burden hours: 33 establishments x 1.50 hours = 50 hours
Cost: 50 hours x $34.60 = $1,730

F. Protective work clothing and equipment (§1926.60(i))

Removal and storage (§1926.60(j)(2)(v))

OSHA is taking no burden for this requirement because employers can use the language specified for labels under paragraph (l)(1)(ii) of the Standard for this purpose. (See "Signs and labels (29 CFR 1926.60(l)(1))" under Item 2.)

Cleaning and replacement (§1926.60(j)(3)(iv) and (j)(3)(v))

The Agency assumes that employers have protective clothing and equipment laundered and cleaned under contract, and that they change contractors infrequently. Therefore, because the need to provide new contractors with the required information is minimal (i.e., employers provide the required information to existing contractors during an earlier clearance period), OSHA is taking no burden hours or cost for this paperwork requirement.

G. Communication of hazards to employees (§ 1926.60(l))

Signs and labels (§1926.60(l)(1))

The provisions containing the paperwork requirements associated with signs and labels specify the specific language for these materials. Therefore, OSHA is taking no burden for these provisions because it is providing the information needed by employers to meet these requirements (See "Controlling paperwork burden on the public," 5 CFR 1320.3(c)(2)).

Information and training, and access to training materials (§1926.60(l)(3) and (l)(4))[8] A basic assumption made by OSHA with regard to training is that employers can provide training to workers in groups of 20. With less than 20 workers per establishment covered by the Standard (i.e., "covered workers"), then each establishment conducts one annual training session (for a total of 33 annual training sessions across the 33 establishments). The Agency also believes that a supervisor takes twenty minutes (.33 hour) to prepare and deliver the training to each session,
and to develop a training record.[9] In addition, OSHA assumes that new workers receive initial training on an individual basis; if the annual turnover rate among workers is 64%[10], then a supervisor conducts initial training for 256 new workers each year (i.e., 64% x 200 covered workers = 128 new workers). The Agency believes a supervisor spends 10 minutes providing each new worker with initial training, and five minutes developing a record of the training, for a total of 15 minutes (.25 hour).[11] These requirements result in annual total burden hour and cost estimates of:

> **Burden hours:** (33 annual training sessions x .33 hour) + (128 initial training sessions x .25 hour) = 43 hours
>
> **Cost:** 43 hours x $34.60 = 1,488

H. Medical surveillance (§1926.60(n)(1-5))

Initial examinations (§1926.60(n)(2))

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8 The Agency is accounting for the burden hours and cost associated with providing employees with access to written training materials, and OSHA compliance officers and NIOSH representatives with access to information and training materials, under "Training records (§1926.60 (o)(6))" below.

9 For each training session, the 20-minute total consists of the following elements: Five minutes for preparation, 10 minutes for delivery, and five minutes to make a record of the training.

10 Turnover rate taken from construction hires rate, *Job Openings and Labor Turnover Survey (JOLT)*, U.S. Bureau of Labor Statistics, 2008.

11 ? This figure assumes that supervisors require no preparation because they use the training materials prepared for the annual training sessions.

OSHA assumes that establishments covered by the Standard hire 128 covered workers each year (see determinations made under "Information and training (29 CFR 1926.60(l)(3))" above), and that each of these workers must remain away from the job for one and one-half hours (1.50 hours) to take the initial medical examination. Accordingly, the total annual burden-hour and cost estimates[12] for this requirement are:

Burden hours: 128 examinations x 1.50 hours = 192 hours
Cost: 192 hours x $22.21 = $4,624

Periodic examinations (§1926.60(n)(3))

OSHA estimates that each of the 200 covered workers receives an annual examination, and that each examination takes one and one-half hours (1.50 hours) of worker time. The resulting total annual burden hour and cost estimates for this provision are:

Burden hours: 200 examinations x 1.50 hours = 300 hours
Cost: 300 hours x $22.21 = $6,663

Emergency examinations, and additional examinations (§1926.60(n)(4) and (n)(5))

The Agency believes that 1% (2) of the 200 covered workers require an emergency or additional medical examination each year, and that each of these workers remains away from the job one and one-half hours (1.50 hours) to receive the medical examination. Thus, the total annual burden hour and cost estimates for this requirement are:

Burden hours: 2 examinations x 1.50 hours = 3 hours
Cost: 3 hours x $22.21 = $67

Multiple physician review mechanism (§1926.60(n)(6))

OSHA assumes that 1% (2) of the covered workers undergo multiple-physician review yearly, either because of emergency MDA exposure or they have signs or symptoms of MDA exposure, and that they spend one and one-half hours (1.50 hour) taking the examination. Accordingly, the estimated total annual burden hours and cost for this examination are:

Burden hours: 2 reviews x 1.50 hours = 3 hours
Cost: 3 hours x $22.21 = $67

Information provided to the examining physician (§1926.60(n)(7))

12
[?] Despite the reduction in the number of affected establishments, the number of initial examinations (and associated burden hours in Table 1, page 26) has increased due to the higher turnover rate estimated for this paperwork renewal package.

The Agency believes that, for each medical examination or multiple-physician review administered to an worker, it takes a secretary five minutes (.08 hour) to compile the required information and provide it to the physician. Based on previous determinations made in this ICR, the Standard requires 128 initial examinations, 200 periodic examinations, two emergency examinations and additional examinations, and two multiple-physician reviews each year, for a total of 332 examinations/reviews. These examinations/reviews result in the following total annual burden hour and cost estimates:

Burden hours: 332 examinations/reviews x .08 hour = 27 hours
Cost: 27 hours x $17.90 = $483

Physician's written opinion (§1926.60(n)(8))

OSHA assumes a secretary spends five minutes (.08 hour) delivering a copy of the physician's written opinion to each worker who receives a medical examination or multiple-physician review. Based on the determination made under "Information provided to the examining physician (29 CFR 1926.60(n)(7))" above, employers administer 332 examinations/reviews each year that result in a physician's opinion covered by this provision. Thus, the estimated total annual burden hours and cost of this requirement are:

Burden hours: 332 examinations/reviews x .08 hour = 27 hours
Cost: 27 hours x $17.90 = $483

Medical removal (§1926.60(n)(9))

An employer bases the decision to medically remove a worker on a written recommendation provided by the examining physician after one of the medical examinations administered under the medical-surveillance program; paragraph (n)(8) of the Standard ("Physician's written opinion"), therefore, covers these recommendations. Accordingly, the Agency included no additional burden hours or cost for this requirement in this ICR.

I. Recordkeeping (§1926.60(o))

Objective data for exempted operations, and historical monitoring data (§1926.60(o)(1) and (o)(2))

The Agency assumes that employers rely on objective data or historical monitoring data for 90% of the 330 job sites each year, or 297 job sites. OSHA estimates that for each job site a supervisor takes 10 minutes (.17 hour) to justify and document the use of objective data or historical monitoring. Thus, the estimated total annual burden hours and cost of this requirement are:

Burden hours: 297 job sites x .17 hour = 50 hours
Cost: 50 hours x $34.60 = $1,730

Exposure measurements (§1926.60(o)(4))

OSHA assumes that a secretary takes five minutes (.08 hour) to establish, maintain, and update each exposure-monitoring record. As noted above under "Exposure monitoring (29 CFR 1926.60(f))," once a year employers conduct initial monitoring at each of the 33 establishments, and provide 33 workers with periodic and additional monitoring; therefore, these monitoring requirements result in a total of 66 records. The estimated total annual burden hours and cost associated with this recordkeeping requirement are:

Burden hours: 66 records x .08 hour = 5 hours
Cost: 5 hours x $17.90 = $90

Medical surveillance (§1926.60(o)(5))

The determinations made under "Information provided to the examining physician" above show that employers provide 332 medical examinations/reviews per year, each of which requires a written record. The Agency assumes that a secretary spends five minutes (.08 hour) per year establishing, maintaining, and updating each of these records, resulting in the following total annual burden hour and cost estimates:

Burden hours: 332 records x .08 hour = 27 hours
Cost: 27 hours x $17.90 = $483

Training records (§1926.60(o)(6))

OSHA estimates that a secretary requires five minutes (.08 hour) to establish, maintain, and update each of the 151 training records[13] determined above under "Information and training (29 CFR 1926.60(l)(3))" (i.e., 33 records for annual training + 128 records for initial training). Accordingly, the total annual burden hours and cost estimated for this provision are:

Burden hours: 151 records x .08 hour = 12 hours
Cost: 12 hours x $17.90 = $215

Availability (§1926.60(o)(7))

13 Despite the reduction in the number of affected establishments, the number of initial training records (and associated burden hours in Table 1, page 26) has increased due to the higher turnover rate estimated for this paperwork renewal package.

OSHA estimates that its compliance officers request records maintained under the Standard during one inspection annually,[14] and that a supervisor spends five minutes (.08 hour) informing the compliance officer of the location of training materials and information, as well as other required records.[15] In addition, the Agency assumes that 10% (33) (200 existing workers + 128 (resulting from turnover) x 10% = 33 workers) or their designated representatives request access to medical records, exposure-monitoring records, written compliance plans, training records, and training materials (workers only) each year. OSHA estimates that a secretary takes five minutes (.08 hour) to make the requested record available to each worker. Therefore, the total yearly burden hours and cost associated with making the required records available to OSHA compliance officers and workers is**:**

Burden hours: (1 inspection-related request x .08 hour) + (33 worker-related requests x .08 hour) = 3 hours

Cost: (.08 hour x $34.60 (supervisor)) + (3 hours x $17.90 (secretary)) = $57

Transfer of records (§1926.60(o)(8))

~~If an employer ceases to do business and there is no successor employer to receive and retain worker medical and exposure-monitoring records for the specified periods, the employer must notify NIOSH of their availability at least 3 months prior to disposing of them. The employer must transmit the records to NIOSH if requested to do so within the 3-month period.~~

~~NIOSH did not receive any MDA-related exposure-monitoring or medical-surveillance records during the past three years. For the purposes of calculating burden hours and costs, it is assumed that one employer may submit one set of records to NIOSH each year, and that a secretary, earning $18.79 per hour, would spend one hour (1 hour) preparing these records.~~

~~**Burden hours:** 1 employer x 1 hour = 1 hour~~

~~**Cost:** 1 hour x $17.90 per hour = $18~~

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).

14 The Agency estimated the number of inspections by determining the inspection rate (1.4%) for all establishments under the jurisdiction of the OSH Act (including both Federal OSHA and approved state-plan agencies), and then multiplied the total number of establishments covered by the Standard (33) by this percentage (i.e., 33 establishments x 1.4% = 1 inspection).

15 The Agency assumes, based on previous history, that no NIOSH representative will request these records.

- **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 respondent (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.**

Capital-Cost Determinations

From these determinations (described below), the Agency estimates that the total capital cost of these requirements each year is ~~$62,850~~ . This total consists of $7,062 for analyzing exposure-monitoring samples, $55,776 to administer medical examinations, ~~and $12 to mail records to NIOSH.~~

(A) Exposure monitoring (§1926.60(f))

Based on information obtained from the Agency's Salt Lake City Technical Center, the average cost for an OSHA-accredited laboratory to analyze a sample of airborne MDA is about $107.[16] The annual cost to analyze the 66 monitoring samples collected by the 33 establishments covered by the Standard (see the determinations made in Item 12 above under "Exposure monitoring" (29 CFR 1926.60(f)) is:

Cost: 66 samples x $107 = $7,062

(B) Medical surveillance (§1926.60(n))

16 Adjusted from 2006 estimates using the CPI Inflation Calculator, Bureau of Labor Statistics, 2006-2009.

Consistent with recent ICRs and regulatory analyses, the Agency estimates that each medical examination costs $168.[17] As noted above under "Information provided to the examining physician (§1926.60(n)(7))" in Item 12 above, the 33 establishments covered by the Standard administer a total of 332 medical examinations each year, resulting in the following annual cost:

Cost: 332 examinations x $168 = $55,776

(C) Transfer of records (§1910.1050(o)(8))

~~Under paragraph (o)(8) of the Standard, employers who cease to do business and have no successor employer must notify NIOSH before disposing of exposure-monitoring and medical records, and transfer these records to NIOSH if so requested. For purposes of estimating a cost, OSHA estimates that 1 set of records, weighing 5 lbs., will cost approximately $12.30 to mail to NIOSH via the United States Postal Service.~~

~~**Cost:** 1 set of records x $12.30 = $12~~

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The Agency estimates that the total annual cost to the Federal government is $~~4, which consists of~~ $3 for an OSHA compliance officer to review the required records during inspections. ~~and $1 for NIOSH to process records received from employers.~~ Other costs, such as equipment, overhead, and support staff expenses, would occur without these collection of information requirements; therefore, OSHA considers these costs to be normal operating expenses.

Availability (§1926.60(o)(7))

According to footnote 9, OSHA conducts one inspection each year of the establishments covered by the Standard. The Agency estimates that a compliance officer (GS-12, step 5), at an hourly wage rate of $39.70 (including benefits), spends about five minutes (.08 hour) during an inspection reviewing the paperwork requirements of the Standard. Therefore, the cost of this task is:

Cost: 1 inspection x .08 hour x $39.70 = $3

~~**Transfer of records (§1926.60(o)(8))**~~

17 ? Adjusted from 2006 estimate using the CPI inflator for medical care, Bureau of Labor Statistics, 2006-2009.

~~The cost of this provision to the Federal government consists of the costs required to process the following records: Records received by NIOSH from employers who cease to do business and have no successor to receive and retain worker records; and records obtained when the retention period for the records has expired. NIOSH has received one record from one employer since 1999. To account for the record transfer burden during this clearance period, OSHA assumes that NIOSH will receive one record annually, and that a secretary (GS-6/Step 5), earning $20.14 per hour, will take four minutes (.07 hour) to process each record.~~

~~**Cost:** 1 record x .07 hour x $20.14 = $1~~

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

OSHA removed the requirement that employers transfer employee exposure-monitoring records and medical records to the National Institute for Occupational Safety and Health, specified in paragraph §1926.60(o)(8)(ii), under the Standards Improvement Project-Phase III final rule. As a result of this rulemaking, the Agency requests a program change reduction of 1 hour and program change cost savings of $12.00.

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

No collection of information will be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be appropriate.

There are no forms to display the expiration date**.**

18. Explain each exception to the certification statement.

OSHA is not seeking such an exception.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

The supporting statement does not contain any collection of information requirements that employ statistical methods.