

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS OF
OCCUPATIONAL SAFETY AND HEALTH STATE PLANS
(29 CFR Parts 1902, 1952, 1953, 1954, 1955, 1956)
OMB CONTROL No. 1218-0247 (January 2012)**

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.

Section 18 of the Occupational Safety and Health Act of 1970 (the Act) encourages the States to assume responsibility for the development and enforcement of State occupational safety and health standards through the mechanism of an approved State plan. Absent a plan approved by the Occupational Safety and Health Administration (OSHA), States are preempted from asserting enforcement jurisdiction over any occupational safety and health issue with respect to which a Federal standard has been promulgated. Section 18 establishes the basic criteria for State plan approval; provides for the discretionary exercise of concurrent Federal enforcement jurisdiction after initial plan approval until such time as the State has demonstrated that it is meeting the approval criteria in actual operation (final State Plan approval), at which point Federal enforcement jurisdiction may be relinquished; provides that State standards and enforcement must be, and continue to be, “at least as effective” as the Federal program including any changes thereto; and requires OSHA to make a continuing evaluation of the manner in which the State is implementing its program and to take action to withdraw plan approval should there be a failure to substantially comply with any provision of the State plan.

OSHA promulgated a series of regulations between 1970 and 1977 implementing the provisions of Section 18 of the Act. 29 CFR 1953 was revised in 2002.

- 29 CFR Part 1902, State Plans for the Development and Enforcement of State Standards
- 29 CFR Part 1952, Approved State Plans for Enforcement of State Standards
- 29 CFR Part 1953, Changes to State Plans
- 29 CFR Part 1954, Procedures for the Evaluation and Monitoring of Approved State Plans
- 29 CFR Part 1955, Procedures for Withdrawal of Approval of State Plans
- 29 CFR Part 1956, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States without Approved Private Employee Plans

Pursuant to the Act and regulations, the States with OSHA-approved State plans operate programs that are parallel to Federal OSHA; they operate under authority of State law, not a delegation of Federal authority. They have primary responsibility for occupational safety and health standards and enforcement with regard to all private sector employees and employers within their defined area of jurisdiction. They also must extend coverage to State and local

government employees - workers not otherwise covered by Federal OSHA. States may also obtain OSHA approval for State Plans limited in scope to Public Employees (State and local government) Only. Under the OSH Act, implementation of a State plan is voluntary on the State's part. The States develop and enact State occupational safety and health legislation which establishes State legal authority over matters of workplace safety and health enforcement, and promulgate occupational safety and health standards and regulations through the regulatory procedures provided under State law, in the usual and customary manner required to implement any State governmental program. Absent Federal approval, States are preempted from adopting and implementing such legislation and regulations. In carrying out their State plans, States conduct workplace inspections, issue citations, propose penalties, and adjudicate contested cases and maintain records on these activities in much the same manner, and through the same data systems, as Federal OSHA. These functions are "investigatory" in nature and the documentation and activity data collected is the "usual and customary" information that any State agency would collect as part of its routine operation, management and accountability for any State regulatory activity. Thus there is no OSHA-imposed paperwork burden associated with the day-to-day operation of an OSHA-approved State plan. (The State programs operate in much the same manner as Federal OSHA and their standards and enforcement paperwork and data collection activities parallel that approved for OSHA.)¹

However, in order to fulfill its responsibilities under the Act - to grant initial, final, and continued approval and assure program effectiveness - OSHA, through its State Plan regulations, requires the States to provide specific documentation describing how their programs are, and continue to be, "at least as effective" as the Federal program in structure and in operation. It is these State plan document development and maintenance requirements, including the negotiations between OSHA and the State as to content and requirements, that constitute information collections for which approval of the associated paperwork burdens is sought.

29 CFR Part 1902, State Plans for the Development and Enforcement of State Standards; 29 CFR Part 1956, Subparts A-C, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States without Approved Private Employee Plans; 29 CFR 1952, Subpart A, Approved State Plans for Enforcement of State Standards: State opportunity/obligation to submit a State Plan document that meets the criteria and indices of effectiveness for State submission and OSHA approval.

Requirement: These regulations establish the conditions that must be met by any State seeking OSHA approval either of a complete State plan, covering both the private sector and State and local government employees (Part 1902), or a State plan limited in scope to

1 It should be noted that the Information Collection analysis prepared for each new OSHA standard includes in its calculations the workplace paperwork burden associated with the parallel standard, including, where relevant, extension to State and local government employees, as adopted by States operating OSHA-approved State plans, especially where the standard is identical to the Federal. That information is not included in this collection. Information collection requirements associated with State standards which differ from the Federal are not subject to the provisions of the Paperwork Reduction Act.

State and local government employees only (Part 1956). The State plan is a one-time submission which begins with the Governor's letter designating a State agency responsible for the plan and indicating the State's intent to seek Federal approval to assume State responsibility for occupational safety and health enforcement in that State. The regulations establish the criteria for State plans, the procedures for initial State plan approval or rejection, and the procedures for final State plan approval, in the case of a complete State plan, and in Part 1956 document the submission and approval process for Public Employee Only State Plans. These regulations establish Federal procedural requirements. The State plan document contains copies of State enabling legislation as well as all standards, regulations, policies and procedures - either in final adopted form or as a proposal with a future commitment to implement within a three (3) year developmental period. In addition to submission of the plan document, the State must publish public notice throughout the State when OSHA seeks public comment on proposed State plan approval.

There are currently 27 OSHA-approved State Plans. All except three were approved during the 1970's. The New York Public Employee Only State Plan was approved in June 1984; the New Jersey Public Employee Only State plan was approved in January 2001; and the Illinois Public Employee Only State plan was approved in September 2009. Currently, the State of Maine is working toward the development of a Public Employee Only State Plan. While at various times Washington, D.C. and Pennsylvania have also expressed interest in the development of a Public Employee Only State Plan, OSHA is unaware of any current initiatives on-going in these or any States, other than Maine. Questions regarding the requirements for submission of a State Plan periodically arise during State legislative sessions. It has been estimated that on average the development of a State Plan requires approximately 2000 burden hours annually over at least a three year period (A new State Plan cannot be approved until State enabling legislation has been enacted and State 50% funding appropriated, and the necessary Federal funds are made available in OSHA's budget to support 50% of the required operational costs of the State's proposed program.)

29 CFR Part 1952, Subparts B -FF, Approved State Plans for Enforcement of State Standards; 29 CFR Part 1956, Subparts E-H, State Plans for the Development and Enforcement of State Standards Applicable to State and Local Government Employees in States without Approved Private Employee Plans: Documents the Federal approval of each State plan and describes its content and status, including any additions or revisions thereto, and defines the level of concurrent Federal enforcement ongoing in that State.

Requirement: There are no State information collection requirements associated with these rules; it is a Federal responsibility to codify the approval of various State submissions under the authority of 29 CFR 1902, 1956, and 1953.

c. **29 CFR 1953, Changes to State Plans:** State obligation to inform OSHA of structural changes to its program, whether self-initiated or in response to changes

in the Federal program, and submit documentation on those changes, for Federal review, and approval of those which are considered of significant program impact.

Requirement: State Plans are initially approved if they contain sufficient documentation, in the form of statute(s), regulations, standards, policy and procedures, to demonstrate that the program will be structurally “at least as effective as” the Federal program. The State plan may be incomplete at time of initial approval but must adopt and submit all necessary structural components within three years of plan approval (developmental plan changes). Any subsequent changes that are made to the State’s program or practice by legislation, regulation, administrative or budgetary action, on its own initiative, must also be documented (state initiated change). When changes are made to the Federal program by legislation, regulation, administrative or budgetary action, which would render the State program no longer “at least as effective” as the Federal program were a parallel change not made, the States must adopt and submit appropriate documentation of a parallel State change for review, and approval if significant (federal program changes). Where Federal monitoring and evaluation of a State’s program results in a determination that State legislation, regulation, policy, procedure or practice, administrative or budgetary action renders the program “not at least as effective” as the Federal program in structure or performance, documentation of appropriate corrective action must be submitted for approval (evaluation plan change). State occupational safety and health standards constitute a subset of “state initiated” and “federal program changes” and must be submitted for approval with appropriate documentation.

State plan change documents are submitted for review, and approval where significant, and serve to modify the approved State plan. Formal Federal approval of the most significant changes may be codified in the appropriate State-specific section of 29 CFR 1952 or otherwise communicated to the State. (Because OSHA-approved State plans operate under authority of State law, all program modifications take effect upon State adoption and remain in effect unless rejected by OSHA through a formal adjudicatory process.) On September 15, 2002 OSHA promulgated amendments to these regulations that sought to reduce the number of submissions requiring formal approval, as long as the State maintains appropriate policy documentation which is available to OSHA and the regulated public for review. States are now required to document all changes to their program, including any response to a program change that adopts policy or procedures parallel to the Federal, through electronic means, by either posting the change on their State website or submitting an electronic copy to OSHA. In addition a web-based data system of automated State responses and tracking of plan changes, together with web posting/electronic submission of plan changes, contribute to a reduction from the original burden hours. As part of an effort to make information on State Plan standards and policies/directives more readily accessible, OSHA and the Occupational Safety and Health State Plan Association (OSHSPA) have developed a system for displaying a summary of the State Plans' responses to new Federal standards and directives, as obtained through the data system, on OSHA's website.

As part of its effort to be responsive to issues and events, OSHA periodically seeks up-to-date summary information from the States, by e-mail, phone, or memorandum, on specific provisions of their programs and/or activities. States usually respond by e-mail with the requested information, providing either web links to, or electronic copies of, relevant documents. This information is consolidated for all State Plans into a reference document. The information sought relates either to specific aspects of the States' operations that is already reflected in State plan documentation or to specific on-going activities, e.g., an inspection. States are not asked to create new information in this process nor to query outside entities. For example, OSHA may need to display which of the approved State Plans have a State standard that differs from the Federal and what those differences are. In the interest of accuracy and timeliness, the States are asked to provide summary information.

- d. **29 CFR 1954, Procedures for the Evaluation and Monitoring of Approved State Plans:** State obligation to participate with OSHA in the monitoring and evaluation of its State program through analysis of data, investigation of complaints about State performance, response to recommendations, and documentation of corrective action, as appropriate.

Requirement: OSHA's monitoring obligation and implementation procedures for evaluating State plan effectiveness remain essentially the same throughout the life of a State's program (initial approval and developmental period, final approval, continued approval) and are primarily a Federal responsibility. The monitoring procedures are

conducted on a fiscal year basis with regular quarterly review of State-supplied and computer generated information, and result in the issuance of annual Federal evaluation reports on each State's effectiveness. The focus of OSHA's monitoring is on State progress in achieving approved performance goals, on meeting mandated requirements of the OSH Act and regulations, and assessing whether State Plan performance regarding standards and enforcement is "at least as effective" as Federal performance. States establish and document their goals in periodically updated five (5) year Strategic Plans and annual Performance Plans which are included in the narrative portion of the State Plan's annual grant submission. Data on State and Federal performance is available through the consolidated Federal/State data system which is maintained and operated by Federal OSHA.

On a quarterly basis, OSHA Regional staff have discussions with State officials on their progress in meeting goals and their performance on mandated program activities. States have primary responsibility for providing information on performance goal progress through State tracking systems. States participate in OSHA's consolidated Federal/State data system (the Integrated Management Information System (IMIS) and its successor, the OSHA Information System (OIS)), providing data on program activities in the same manner as a Federal office. Thus, complete data on the usual and customary activities of the States' enforcement, compliance assistance, and non-discrimination programs are available to OSHA. Data needed to evaluate State performance are produced through federally developed and generated reports using agreed upon measures. Federal officials conduct performance analysis and prepare annual evaluation reports. States participate to varying degrees in assessing information, and prepare formal annual self-evaluation reports on their performance. In addition, States respond to Federal reports, including commitments for any needed corrective action.

Beginning in 2010, in response to concerns about specific State Plan performance issues, e.g., construction fatalities in Nevada, Federal monitoring has become more rigorous resulting in additional expectations for more detailed State responses to report findings and documentation of specific follow-up actions through corrective action plans, etc. Special Federal evaluation reports were generated on each of the approved State Plans covering FY 2009 and FY 2010 performance. The expanded effort is expected to continue to the extent that Federal resources permit. Federal review of case files and staff and stakeholder interviews are included in this expanded effort. States are provided full opportunity to participate in these efforts and respond to findings, both formally and informally. Similarly, Complaints About State Program Administration (CASPA) are investigated Federally with State opportunity for input and response.

For information and/or data not part of a currently established electronic data system, the States on occasion may be asked to provide copies of specific action items, such as variances granted or significant review board decisions for review and monitoring.

e. **29 CFR 1955, Procedures for Withdrawal of Approval of State Plans:**

Federal obligation to bring formal adjudicatory action, document and prove that specific State Plan performance no longer warrants Federal approval.

Requirement: If a State chooses to challenge action brought by Federal OSHA to withdraw plan approval, it must participate in a formal adjudicatory process through filing of briefs, motions, et al. There are no State information collection requirements associated with this regulation.

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 requirements for State submissions on the structure and performance of their OSHA-approved State Plan, as established by the various State Plan regulations, are necessary to provide OSHA with sufficient information to evaluate whether the State plan provides a program of standards and enforcement and voluntary compliance to employers and employees in that State that is “at least as effective” as the Federal OSHA program and thus warrants continued Federal approval and funding. Collection of information from the States with approved State Plans is required for three categories of information as set forth in the current regulations; two of the regulations establish only Federal responsibilities and have no information collection requirements.

a. **The State Plan (29 CFR 1902, 1956, Subparts A-C, and 1952, Subpart A).** The State Plan document as approved provides information to the public, affected employers and employees and to OSHA on the structural components of the State OSHA program. It includes documentation of the underlying legislative and regulatory authority for the State plan and its intended methods of operation. As regularly updated through State plan changes (see following category), it has become a voluminous document, the most current components of which are now readily accessible through electronic means, primarily posting on State websites. It is used primarily for technical research and reference when questions of State authority or performance arise. The State of Maine is actively pursuing the development of a new Public Employee Only State Plan. Questions arise periodically in other States, primarily during State legislative sessions, about the possibility of the development of Public Employee Only State Plans.

b. **Plan Approval (29 CFR 1952, Subparts B-FF, and 1956, Subparts E-G).** There are no additional information collection requirements imposed on the States associated with codifying the approval of the plan and of its substantive changes. The Level of Federal Enforcement is also codified in this regulation for each State and serves as the primary means of informing employers and employees of their occupational safety and health coverage and whether they are subject to State or Federal enforcement jurisdiction. This is a Federal responsibility.

c. **State Plan Changes (29 CFR 1953).** Formal changes to a State Plan are submitted to document and allow OSHA to assure continued program effectiveness by reflecting changes to authority and procedures, including legislation, regulations and standards. States

must also have operating procedures equivalent to those in the Federal program, and must respond to all changes in the Federal program by submitting parallel State policies and procedures through web-links or electronic copies, if State procedures differ from the Federal. The information is used for comparison to the Federal program, to determine equivalent effectiveness and continued plan approvability, and to respond to questions from the public, employers and employees, the Congress and other oversight agencies with regard to one or multiple States' authority, procedures, and practices. Summary information is posted on OSHA's website. States are also periodically asked to respond to requests, both formally and informally, for information on the structural components or operational practices of their programs. The information is used to demonstrate that the State Plan is providing an "at least as effective" State program to its employers and employees, to respond to specific questions, and to assemble consolidated information on all State plans.

d. **Monitoring and Evaluation (29 CFR 1954).** Most information and data collected for monitoring and evaluation is developed federally or as a part of the States' routine program operation including data entry into the consolidated Federal/State data system. Where information is not captured electronically, the States are required to submit copies of relevant actions for monitoring oversight, including Strategic and Annual Performance Plans, which also serve grant funding application purposes. States must provide formal responses to program performance complaint investigations, evaluation reports, and special monitoring studies, including development of corrective action plans, as appropriate. This information is used by OSHA to establish whether there are program deficiencies and, if so, to assure their correction. This information is also of interest to the public, the Congress, and employers and employees as a means of external assessment of satisfactory program operation. OSHA conducted special expanded monitoring efforts covering FY 2009 and follow-up reports on FY 2010 State Plan performance which entailed increased Federal oversight, including review of a subset of State enforcement case files. The States were required to respond in more specific detail to these reports and to develop detailed Corrective Action Plans with appropriate follow-up documentation. This has resulted in an increase in paperwork burden hours for the States.

e. **Plan Withdrawal (29 CFR 1955).** The information collection associated with this regulation is adjudicatory in nature. Any action to withdraw plan approval is initiated federally. The State may choose to oppose the action, in which case it would prepare the usual and customary documents required to defend itself in a legal proceeding.

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 the burden.

Data on State plan day-to-day activity is collected electronically through a unified Federal/State data system. (This data is part of the "usual and customary" information that any State regulatory agency would collect as part of its routine operation, management and accountability

functions and deal with matters that are investigatory in nature.) OSHA has developed the data system and provided it to the States without cost. The necessary computer and network equipment is purchased by the States using available grant funding, and the States are charged monthly for their proportionate share of telecommunication and data processing costs. States actively participate in the design and modification of new and improved systems and OSHA regularly negotiates with the States to assure that computer services meet State needs.

In recent years, Plan Changes and the newest State Plan have been submitted electronically through e-mail with most basic authorizing and implementing documents posted on State and Federal websites. OSHA deployed an automated system for tracking the submission and review of plan changes in FY 2003. Summary reports of State responses are posted for public information on OSHA's website. Activities associated with monitoring are arranged and negotiated through electronic means. Annual State Plan Grant applications submitted under section 23(g) of the Act are now submitted electronically through <http://www.grants.gov/>. Although electronic submission is mandatory, only two forms are actually completed online. All other documents are submitted as scanned documents resulting in minimal to no change in preparation time and burden hours for grant submissions. However, most State Plans have been in operation for 30+ years and have established internal electronic templates for their grant submissions, requiring only annual update.

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

The submission of multiple copies of documents has been eliminated through electronic submission. States are no longer required to submit multiple copies of documents to multiple offices, but may provide the information once through email to the various offices that require the information or by posting the documents on the State's website and providing the URL to OSHA. All information developed is specific to the OSHA program and there is no similar information available.

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

These information collections relate solely to participating State agencies. There is no impact on small businesses or other small entities.

6. Describe the consequences 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 information must be collected to fulfill OSHA's statutory responsibility to assure that State Programs are "at least as effective" as the Federal program in structure and performance, and continue to be so, as the Federal program changes. Regulation and procedural changes have been made to allow State certification of various actions with documentation retained and available within the State if identical to the federal. If actions differ from the Federal web posting or electronic submission has replaced formal hard copy submissions. It is essential to the process that States be afforded the opportunity to provide input, explanations and comment

on monitoring findings or other critiques of their structure and/or performance as they impact on continued authority and funding to operate a State plan.

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

- **Requiring respondents to report information to the agency more often than quarterly;**
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **Requiring respondents to submit more than an original and two copies of any document;**
- **Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- **In connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances for information collection.

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

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

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

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the *Federal Register* on November 28, 2011 (76 FR 72980, Docket No. OSHA-2011-0197) requesting public comment on its proposed extension of the information collection requirements associated with Federal regulations governing OSHA-approved State plans (29 CFR Parts 1902, 1952, 1953, 1954, 1955, and 1956). This notice was part of a

preclearance consultation program intended to provide those interested parties the opportunity to comment on OSHA's request for an extension by the Office of Management and Budget (OMB) of a previous approval of the information collection requirements found in the above Standard. The Agency received no comments in response to its notice to comment on this request.

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

OSHA will not provide payments or gifts to the respondents, other than grant funding as authorized by law.

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

The respondents in this information collection activity are State government agencies which do not require assurance of confidentiality.

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.

No information of a sensitive nature or other matters that are commonly considered private are associated with these information collections. (As a condition of funding, States are required to provide assurances of nondiscrimination in their operation and with regard to their employees.)

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

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized costs to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

Information Collection	Number of Respondents	Frequency of Response	Annual Burden Hours	Costs²
State Plan Development³	1	1 (one-time)	2,000	
Total			2,000	\$ 58,630
Plan Changes	27			
• Developmental	1	15 (x 5 hours)	75	
• State Initiated	15	5 (x 5 hours)	375	
• Federal Program	27	8 (x 1 hour)	216	
• Evaluation	15	3 (x 6 hours)	270	
Different Standards	4	4 (x 10 hours)	160	
Requests for Summary Information	27	20 (x .5 hour)	270	
Total			1,366	\$ 40,044
Monitoring Activities				
Quarterly Meetings	27	4 (x 8 hours)	864	
Strategic Plan	27	.2 (x120 hours)	648	
Performance Plan/Grant Application Narrative	27	1 (x 80 hours)	2,160	
State Annual Report	27	1 (x 65 hours)	1,755	
State activities' reviews/updates	27	4 (x 2 hours)	216	
Response to Federal Monitoring Report	27	1 (x 65 hours);	1,755	
Response to CASPAs	27	2 (x 8 hours)	432	
Total			7,830	\$229,536
Total	28	69.2⁴	11,196	\$328,210

2 The cost estimate is based on the average salary of a State Plan administrative professional - \$69,430, at a \$33.38 hourly rate, and the average salary of State clerical staff - \$35,610, at a \$17.12 hourly rate. It is assumed that 75% of the information collection is performed by professional staff and 25% by clerical. Source: Bureau of Labor Statistics News Release, September 8, 2011, Employer Costs for Employee Compensation - June 2011; Table 4: State and local government employer costs per hour worked. (<http://www.bls.gov/news.release/ecec.nr0.htm>)

3 The State of Maine is pursuing the development of a new Public Employee Only State Plan. OSHA is unaware of any other State that is actively considering the submission of a new State Plan, either complete or public employees only. The possibility of pursuing plan approval arises as a question during legislative sessions in several States each year. The burden hours associated with active plan development are estimated to be 2,000 a year.

4 The total number of responses is 1,264.

State Plan

One State, Maine, is currently considering the development of a State Plan for Public Employees Only. It is estimated that the burden hours associated with the process to develop and submit a State Plan document, a one-time only event, is a total of 6,000 hours (3 FTE) over a period of at least 3 years, or **2,000 hours** additional annual burden. (State plan approval cannot be completed until Federal grant funds are added to OSHA's budget.) At the estimated professional and clerical hourly rates (see footnote 2), the burden hour cost would be \$58,630.

State Plan Changes

Plan change estimates are based on type of submission and the burden that is associated solely with the preparation of the documentation necessary for submission to OSHA. The effort required to accomplish the action - promulgate a standard, adopt a regulation, develop a policy - are all a necessary part of the routine operation of the program. The only burden is the submission.

Developmental changes: The Illinois' Public Employee Only State Plan was approved in September 2009 and is expected to submit the developmental plan changes necessary to document the structural completeness of its program, as pledged at time of plan approval. Illinois is expected to submit up to 15 developmental plan changes during each year of its developmental period. It is estimated that each change requires 5 hours of staff effort to prepare for submission or **75 hours**. The development of a Maine Public Employee State Plan is such that plan submission/ approval is not anticipated in the near future.

State-Initiated changes: It is estimated that 15 of the 26 approved State plans (Illinois is not included as its parallel changes would be considered Developmental) may submit as many as 5 plan modifications on their own initiative each year. It is estimated that each change requires 5 hours of staff effort to prepare for submission, or **375 hours**.

Federal Program changes: All 27 States are required to respond to an average of 8 changes in the Federal program each year. Documentation of the changes are submitted by web link or electronic copy, if the policy adopted differs from the Federal. It is estimated that each change requires 1 hour of staff effort to prepare for submission, or **216 hours**.

Evaluation changes: It is estimated that as many as 15 States may have to make as many as 3 changes to their plans per year based on issues discovered during monitoring and evaluation. Each change requires up to 6 hours of staff effort to prepare for submission, or **270 hours**. More extensive Federal monitoring has led to an increase in the number of evaluation plan changes necessary to maintain State Plan effectiveness..

Different State Standards: A State may adopt a State standard different from the Federal

either on its own initiative or in response to a Federal standard. Such standards require submission of a detailed comparison to the Federal and justification of the differences. (Again, the time spent developing and promulgating the standard is not part of the Federal burden.) It is estimated that on average 4 States per year develop 4 different State standards which require 10 hours per submission, or **160 hours**.

Requests for Summary Information: Periodically OSHA needs to assemble information on how specific issues are dealt with in each of the 27 States with approved State Plans. This information is gathered almost exclusively through informal electronic (e-mail) means, although phone calls and memoranda (transmitted electronically) are sometimes necessary. States are not asked to create new information in this process nor to query outside entities. It is estimated that there are twenty such requests each year which require up to one-half (.5) hour per response, or **270 hours**. Information on State plan change submissions is collected in an electronic data system with the implementation of an automated log tracking system and summary information is posted on OSHA's website for public use.

Monitoring Activities

On a five year cycle all 27 States establish long range strategic goals (120 hours), or **648 hours** per year. On an annual basis the 27 States must prepare performance plans with annualized goals (80 hours each or **2160 hours**) and submit year-end State self-evaluation reports on goal progress (65 hours each or **1,755 hours**). The performance plans also serve a dual purpose as the narratives for the annual State funding/grant applications and are now scanned and submitted electronically through www.Grants.gov.

On a quarterly basis, 27 States provide interim reports on their goal progress during discussions/meetings with Regional staff (8 hours per meeting or **864 total hours**). On a quarterly basis the 27 States provide other information and/or data which are not part of a currently established electronic data system, including copies of specific action items, such as variances granted or significant review board decisions (2 hours each or **216 total hours**). All 27 States provide responses and corrective action plans, where necessary, in response to the annual Federal evaluation report (65 hours each or **1,755 total hours**). In addition, States must respond to other Federal reports and special assessments including responses to Complaints about State Program Administration (CASPA's). It is estimated that on average each State must respond to 2 CASPA's a year (8 hours effort or **432 total hours**), although some States may have more and some may have none in any given year.

OSHA estimates a total of **11,196** burden hours for the States to comply with the information collection and reporting requirements of 29 CFR 1902, 1952, 1953, 1954, 1955, and 1956.

Total Burden Hour Cost to the States: \$328,210.
(See footnote 2 for wage rates used to estimate costs.)

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of 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 on capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collections services should be part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

All costs associated with this collection are included in Item 12 above.

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 may also aggregate cost estimates from Items 12, 13, and 14 in a single table.

The cost to the Federal government is for the review and analysis of the various plan documents and monitoring information submitted by the States. A professional staff of up to 7 Program Analysts in the Directorate of Cooperative and State Programs, Office of State Programs, in Washington, D.C. (average grade GS-13, Step 4 with a salary of \$97,936) spends 30% of its time tracking and reviewing the subject information collection at a cost of \$205,645 per year. Each of the 10 Regions has an average of 2 FTE, (average grade GS-13, Step 1, with a salary of \$89,033) who devote 25% of their time to these functions (\$445,120). Therefore, the total Federal review cost is: \$650,765.

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

The Agency is requesting an adjustment increase of 544 hours, from 10,652 burden hours to 11,196, to reflect an increase from 10 to 45 in the number of evaluation changes anticipated as a result of increased Federal oversight, and the increase in potential respondents from 27 to 28, as a result of one State actively considering the development of a new plan for submission.

16. For collection of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

OSHA will not generally publish this information. However, summary information on State responses to changes in the Federal program is posted on OSHA's website as are major Federal monitoring reports and the States' responses. Most States make detailed information on their statutes, rules, regulations, standards and policies as submitted to Federal OSHA available on their public websites, and OSHA provides summary information, including links to the State information, on a webpage devoted to each State Plan. All other information is publicly available upon request.

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

There are no forms on which to display the expiration date.

18. Explain each exception to the certification statement.

OSHA is not seeking an exception to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection of information does not employ statistical methods.

Attachments:

Section 18, Occupational Safety and Health Act of 1970 (29 U.S.C. 667)
29 CFR Part 1902, State Plans for the Development and Enforcement of State Standards
29 CFR Part 1952, Approved State Plans for Enforcement of State Standards
29 CFR Part 1953, Changes to State Plans
29 CFR Part 1954, Procedures for the Evaluation and Monitoring of Approved State Plans
29 CFR Part 1955, Procedures for Withdrawal of Approval of State Plans
29 CFR Part 1956, State Plans for the Development and Enforcement of State Standards
Applicable to State and Local Government Employees in States without Approved Private
Employee Plans