

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENTS OF
THE STANDARD ON PORTABLE FIRE EXTINGUISHERS
(ANNUAL MAINTENANCE CERTIFICATION RECORD)
(29 CFR 1910.157(e)(3))¹
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NO. 1218-0238 (April 2014)**

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 main objective of the Occupational Safety and Health Act of 1970 (i.e., “the Act”) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the Act authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C. 651).

With regard to recordkeeping, the Act specifies that “[e]ach employer shall make, keep and preserve, and make available to the Secretary . . . such records . . . as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . .” (29 U.S.C. 657). The Act states further that “[t]he Secretary . . . shall prescribe such rules and regulations as [he/she] may deem necessary to carry out [his/her] responsibilities under this Act, including rules and regulations dealing with the inspection of an employer’s establishment” (29 U.S.C. 657).

Under the authority granted by the Act, the Occupational Safety and Health Administration (i.e., “OSHA” or “the Agency”) published at 29 CFR 1910.157 a safety standard for general industry regulating portable fire extinguishers (i.e., “the Standard”). Paragraph (e)(3) of the Standard requires employers to: inspect portable fire extinguishers annually for normal operation; record the maintenance date; retain the maintenance record for one year after the last entry or for the life of the shell, whichever is less; and make the record available to an OSHA compliance officer upon request. The annual maintenance inspection ensures that portable fire extinguishers are in safe operating condition in case of a fire, while the maintenance record provides evidence to employees and Agency compliance officers that employers performed the required inspections. Items 2 and 12 below describe the specific information collection requirement 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.

¹The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with the hydrostatic testing provision of the Standard on Portable Fire Extinguishers; this Supporting Statement does not provide information or guidance on how to comply with, or how to enforce, the Standard.

The purpose of this requirement is to reduce workers' risk of death or serious injury by ensuring that portable fire extinguishers are in safe operating condition.

§1910.157(e)(3)--Portable Fire Extinguishers--Inspection, maintenance, and testing.

Paragraph (e)(3) of the Standard specifies that employers must subject each portable fire extinguisher to an annual maintenance inspection and record the date of the inspection. In addition, this provision requires employers to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to OSHA on request. This recordkeeping requirement assures employees and Agency compliance officers that portable fire extinguishers located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence to OSHA compliance officers during an inspection that the employer performed the required maintenance checks on the portable fire extinguishers.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Employers may use automated, electronic, mechanical, or other technological information 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 provision 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 purpose(s) described in A.2 above.

The requirement to collect and maintain information is specific to each employer and worker involved, and no other source or agency duplicates the requirement or can make the required information available to OSHA (i.e., the required information is available only from employers).

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

The information collection requirement specified by the provision 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 or is not conducted less frequently, and any technical or legal obstacles to reducing the burden.

The Agency believes that the information collection frequency required by the provision is the minimum frequency necessary to 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 in the Act at 29 U.S.C. 651. Accordingly, if employers do not perform the required information collection, or delay in providing this information, workers may

inadvertently attempt to operate fire extinguishers that are not in proper working order; thus increasing their risk of death or serious injury.

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 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 prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

This information request is consistent with the guidelines provided in 5 CFR 1320.5.

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

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, revealed, 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 mitigate against 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 December 10, 2013 (78 FR 74167) requesting public comments on its proposed extension of the information collection requirements contained in the Standard on Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)). 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 one comment in response to its notice from David Karmol of the International Code Council (ICC).

The ICC concurred that existing collection of information requirements are necessary to ensure portable fire extinguishers are properly installed and maintained in the workplace thus ensuring worker safety. The ICC also suggested three changes to the fire extinguisher standard for consistency with International Fire Code (2012) and NFPA 10 (2010):

1. The addition of a requirement in 1910.157(e)(1) that fire extinguisher service personnel be certified.
2. The addition of an alternative in 1910.157(e)(2) to allow electronic monitoring systems to substitute for the 30-day visual inspection.
3. The addition of an alternative in 1910.157(e)(3) to allow the proof of IFC 906.2 inspections to be deemed equivalent to the OSHA-mandated recordkeeping.

OSHA welcomes the ICC comments. All such changes would necessitate notice and comment rulemaking under section 6(b) of the OSH Act. ICC's suggestions will be taken under advisement for future action.

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

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

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

The paperwork requirements specified by the provision do not involve confidential information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

The provision does not involve collection of sensitive information.

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

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

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage-rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

Burden-Hour and Cost Determinations

The number of portable fire extinguishers covered by this Information Collection Request (ICR) is based on the number of establishments available from data taken from Table 1, *Covered establishments, employment, and wages in the 329 largest counties, fourth quarter 2012* of the Economic News Release, Bureau of Labor Statistics, U.S. Department of Labor. The data indicates that there are 9.205 million establishments in the United States; thus, the Agency is using that number for the number of portable fire extinguishers that will be subject to an annual maintenance check.

The Agency adopted the mean wage rates from the May 2012 *National Occupational Employment and Wages*, Bureau of Labor Statistics, U.S. Department of Labor,² Total compensation for these occupational categories include an adjustment of 29.7 percent (*Employer Costs for Employee Compensation, June 2013*) for fringe benefits; this figure represents the average level of fringe benefits in the private sector. With wages comprising 70.3 percent of worker compensation, the Agency multiplied wages by 1/42 (1/.703) to derive total hourly employee compensation. The costs of labor used in this analysis are; therefore, estimates of total hourly compensation. These hourly wages are:

Precision Instrument and Equipment Repairer (49-9069)	\$36.10
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§1910.157(e)(3) -- Portable Fire Extinguishers -- Inspection, maintenance, and testing.

OSHA believes that a large number of establishments will subject their fire extinguishers to the annual maintenance inspection as a usual and customary business practice to meet local fire codes and/or to reduce fire insurance premiums. Based on past information from a senior fire prevention engineer, it was estimated that approximately 85 percent of the 9,205,000 portable fire extinguishers (7,824,250) will undergo the annual maintenance inspection as a usual and customary business practice. Therefore, OSHA is not including these inspections and associated records in determining the burden hours and cost of the information collection requirement specified by paragraph (e)(3) of the Standard. Based on this determination, this burden hour estimate only covers the remaining 15 percent (i.e., 1,380,750) portable fire extinguishers.

Past discussions by the Agency with a leading fire extinguisher servicing company indicate that they collect and test, under contract, about 90 percent of the 1,380,750 portable fire extinguishers (i.e., 1,242,675) covered by 29 CFR 1910.157(e)(3). Accordingly, employers

²The website is <http://www.bls.gov/oes/tables.htm>.

perform their own inspections and recordkeeping on the remaining 10 percent (138,075) of these extinguishers.

For employers who perform their own inspections, OSHA estimates that an inspector will take approximately 30 minutes (.50 hour) to perform and record the required maintenance inspection on each portable fire extinguisher (this estimate is based on information from staff familiar with the inspection testing). The inspector typically records the inspection date on a readily-visible tag attached to the extinguisher; therefore, disclosure of the recorded information to OSHA compliance officers imposes no burden on employers. The estimated burden hours and cost associated with performing and recording the required maintenance inspections are:

Burden hours:	138,075 fire extinguishers x .50 hour = 69,038
Cost:	69,038 hours x \$36.10 = \$2,492,272

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 service component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information 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.**

The cost to conduct the annual inspection of a portable fire extinguisher ranges from \$10.00 to \$22.50³ depending on the size of the extinguisher; therefore, for calculating cost, the Agency is using an average of \$16.25. As discussed in #12 above, about 1,242,675 extinguishers are tested through contract with a fire extinguisher maintenance service. The total cost associated with performing the required annual maintenance inspections under contract on 1,242,675 portable fire extinguishers is:

³SOURCE: <http://sterlingfire.vicbc.com/extinguishers.htm>

Cost: 1,242,675 fire extinguishers x \$16.25 = \$20,193,469

Table 1: Total Information Collection Burdens (1,380,750 total inspections).

Inspection Type	Percentage of all Inspections	Responses	Time per Response (Hours)	Annual Time Burden (Hours)	Other Costs per Response	Annual Other Cost Burden
Self	10 %	138,075	0.5	69,038	\$0.00	\$0.00
Contract	90 %	1,242,675	0.0	0	\$16.75	\$20,193,469
<i>Unduplicated Totals</i>	<i>100 %</i>	<i>1,380,750</i>	<i>//////////</i>	<i>69,038</i>	<i>//////////</i>	<i>\$20,193,469</i>

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

OSHA estimates that a compliance officer (GS-12, step 5), with an hourly wage rate of \$37.37,⁴ spends about five minutes (.08 hour) during an inspection reviewing the documents required by the Standard. The Agency determines that its compliance officers will inspect about 128,870⁵ portable fire extinguishers regulated by the Standard during each year covered by this ICR. OSHA considers other expenses, such as equipment, overhead, and support staff salaries, to be normal operating expenses that would occur without the paperwork requirements specified by the provision. Therefore, the total cost of these paperwork requirements to the Federal government is:

Cost: 128,870 inspections x .08 hour x \$37.37 = \$385,270

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

OSHA is requesting an adjustment increase of 1,244,760 responses (from 135,990 to 1,380,750) and an increase of 1,043 burden hours (from 67,995 to 69,038 burden hours). The increased estimate for the number of responses stems from a reconsideration of how this figure should be calculated. Prior estimates fully accounted for all time and cost burden but only counted responses imposing a time burden as a response for reginfo.gov database purposes. Employers who contract for an inspection also are making a response under the PRA, and this ICR adjusts the analysis. This ICR's adjustment increase is also a result of the number of portable fire extinguishers increasing from 1,359,900 to 1,380,750 (see explanation under Item 12). In addition, there is an increase in the cost under Item 13 from \$19,888,538 to 20,193,469 (an

⁴SOURCE: U.S. Office of Personnel Management, General Schedule and Locality Tables, Salary Table 2010-RUS, http://www.opm.gov/oca/10tables/pdf/rus_h.pdf.

⁵OSHA estimated the number of inspections by multiplying OSHA's inspection rate (1.4%) by the number of portable fire extinguishers covered by this ICR (i.e., 9,205,000 portable fire extinguishers x 1.4% = 128,870 inspections).

increase of \$304,931). This cost increase is the result of updated data indicating an increase in the number of establishments; thus, the Agency estimates an increase in the number of portable fire extinguishers inspected by outside contractors.

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.

OSHA will not publish the information collected under the provision.

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.

OSHA lists current valid control numbers in §§1910.8, 1915.8, 1917.4, 1918.4, and 1926.5 and publishes the expiration date in the Federal Register notice announcing OMB approval of the information collection requirement. (See 5 CFR 1320.3(f)(3).) OSHA believes that this is the most appropriate and accurate mechanism to inform interested parties of these expiration dates.

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

Table 2: Requested Burden-Hour Adjustments

Information Collection Requirement	Current Burden Hours	Requested Burden Hours	Adjustment	Cost Under Item 12	Cost Under Item 13	Responses	Explanation of Adjustment
Portable Fire Extinguishers --- Inspection, maintenance, and testing.(29 CFR 1910.157(e)(3))	67,995	69,038	1,043	2,492,272	\$20,193,469	1,380,750	An increase in burden hours and cost occurred due to an increase in the number of establishments; thus, an increase in the number of portable fire extinguishers. In addition, there is an increase in the cost (from \$19,888,538 to 20,193,469) for those employers who use an outside source for the inspection of portable fire extinguishers.
TOTAL	67,995	69,038	1,043	2,492,272	\$20,193,469	1,380,750	