

**SUPPORTING STATEMENT FOR THE
COLLECTIONS OF INFORMATION CONTAINED IN THE
REGULATION ON DEFINITION AND REQUIREMENTS FOR
A NATIONALLY RECOGNIZED TESTING LABORATORY (29 CFR 1910.7)
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0147
(February 2017)**

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 principal objective of the Occupational Safety and Health Act (OSH Act) is to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources (29 U.S.C. 651). In fulfilling this objective, the OSH Act authorizes “the Secretary of Labor to set mandatory occupational safety and health standards applicable to businesses affecting interstate commerce” (29 U.S.C. 651) and to “prescribe such rules and regulations as may [be] deem[ed] necessary to carry out [his/her] responsibilities under the Act . . .” (29 U.S.C. 657).

A number of standards issued by the Occupational Safety and Health Administration (OSHA or the Agency) specify that employers use only equipment, products, or material tested or approved by a Nationally Recognized Testing Laboratory (NRTL). This requirement ensures that employers use safe equipment, products, or materials in complying with the standards. Accordingly, OSHA promulgated its Program Regulation for NRTLs, 29 CFR 1910.7 (the Regulation). The Regulation specifies procedures that organizations must follow to apply for, and to maintain, OSHA’s recognition to test and certify equipment, products, or material for safe use in the workplace.

As part of the recognition process, the Regulation requires that organizations seeking recognition submit an initial-recognition application to OSHA (29 CFR 1910.7 Appendix A (App. A)). The Agency reviews the information provided in the initial-recognition application to determine if an organization meets the qualification criteria specified in the Regulation (App. A). These criteria address, among other things, an organization’s independence and capability to test and examine equipment, products, or material for safety (including fire or electrical safety) (29 CFR 1910.7). In this regard, the Agency evaluates an organization's facilities, equipment, staff training, written testing procedures, and calibration and quality control programs necessary to test and examine equipment, products, and material for safety.

Once recognized, an NRTL may apply to expand its current recognition to cover additional categories of NRTL testing (App. A). To do so, an NRTL must submit an expansion-of-recognition application that provides the Agency with information demonstrating that it meets the testing criteria specified by the Regulation for these additional categories (App. A). An NRTL may also revise its testing procedures, such as testing methods or pass-fail criteria, provided those revisions are in conformance with an appropriate test standard for which the NRTL is recognized. OSHA may review these revisions during assessments of the NRTL (discussed below).

Recognition is site-specific. However, an NRTL may apply to expand the number of sites for which it is recognized. To do so, an NRTL must submit an expansion of recognition application that provides the Agency with information demonstrating that the site for which it seeks recognition meets the qualification criteria specified in the Regulation.

Recognition by OSHA of an NRTL is valid for five years (App. A). To renew recognition for another five-year period, an NRTL must request renewal from the Agency not less than nine months and not more than one year before the current recognition expires (App. A). In some cases, OSHA may dispense with this renewal requirement provided the organization certifies its continuing compliance with the Regulation (App. A).

To ensure that NRTLs are meeting the requirements of the Regulation, the Agency attempts to conduct audits (assessments) at each NRTL annually. The Regulation provides for the conduct of these audits in 29 CFR 1910.7(f). OSHA also conducts assessments in conjunction with initial, expansion, and renewal applications (App. A). During assessments, an NRTL or applicant provides OSHA with standard written information to evaluate its compliance with the requirements for recognition. Assessments help ensure that equipment, products, or material used by employers to comply with OSHA's standards are safe to use.

Finally, the NRTL Program has a fee schedule associated with initial recognition, program expansion, renewals of recognition, and on-site audits (29 CFR 1910.7(f)). To facilitate the payment of fees and reduce the burden on NRTLs, the Agency is in the process of establishing an electronic payment mechanism on [Pay.gov](https://www.pay.gov). For each transaction on this site, users will be required to complete a short payment form.

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.

An initial recognition application, along with information obtained during a related assessment, allows the Agency to evaluate an organization's capability to test and examine equipment, products, or material for safety, and to meet other qualification requirements specified in the Regulation. An expansion of recognition application, along with information obtained during a related assessment, permits OSHA to determine whether an NRTL can perform additional categories of NRTL testing or whether additional sites should be recognized. A request for renewal, along with information obtained during a related assessment, permits OSHA to determine whether an NRTL's recognition should be renewed. Other assessments of NRTLs (i.e., audits) permit OSHA to determine whether NRTLs continue to meet the requirements of the NRTL Program regulation. The use of electronic fee submissions, through Pay.gov, will facilitate the payment of fees by, and reduce the burden, on NRTLs and reduce OSHA's administrative burden with respect to the processing of fee payments.

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.

OSHA provides respondents with the opportunity to reduce burdens through the use of information technology to prepare and submit collections of information required by the Regulation. First, the Agency provides electronic application guidelines on its website, which describe the process for preparing and submitting initial-recognition applications and criteria OSHA uses to determine whether an organization seeking recognition meets the requirements of the Regulation. These guidelines also describe the process for preparing and submitting expansion of recognition and renewal of recognition applications. These guidelines are currently available at <https://www.osha.gov/dts/otpc/nrtl/applguid.pdf>.

OSHA notes that it plans to issue a new NRTL Directive in the near future, which would, in part, perform the same function that the current application guidelines currently perform. OSHA may therefore also eliminate the application guidelines in the near future. The new directive, like the current directive (https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=DIRECTIVES&p_id=2004), would be available on OSHA's website.

The Agency has also developed standardized optional forms to facilitate and simplify the information collection process. The optional forms correspond to the application, expansion, and renewal processes described in item 1 above. Where practicable, the forms will provide for automations such as drop down lists to increase ease of use and reduce the information collection

burden. Finally, forms posted on Pay.gov to facilitate fee collection will be in an electronic format only and will only apply when an NRTL is using the service to submit a fee.

In some cases, OSHA supplements or replaces an on-site assessment of an NRTL with an electronic assessment using web technology and teleconferencing capabilities. This option, when used, reduces the cost burden on respondents. As explained more fully in Item 13, respondents bear costs resulting from the collections of information required by the Regulation in the form of fees paid to OSHA for the various NRTL-related services OSHA provides. These fees include payment for the time and expenses associated with OSHA personnel travel for the conduct of assessments. The use of electronic assessments reduces or eliminates these travel-related costs. OSHA notes that, for the purpose of computing costs in Item 13, OSHA assumes that all assessments involve travel. These are conservative estimates because, again, some assessments do not involve travel, or involve reduced travel.

Finally, forms posted on Pay.gov to facilitate fee collection will be in an electronic format only and will apply only when an NRTL is using the service to submit a fee.

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

The paperwork requirements of the Regulation involve the submission of information that is specific to each respondent involved. Therefore, no similar information is available, or can be made available, to OSHA that would duplicate the collections of information submitted by each respondent. For example, a respondent that chooses to voluntarily complete and submit an application for initial recognition, expansion of recognition, or renewal of recognition is the only source for the unique information that would be contained in that particular application.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Item 5 of OMB Form 83-I asks whether the collection of information will have a significant economic impact on a substantial number of small entities. OSHA concludes that the information collection requirements of the Regulation do not have a significant impact on a substantial number of small entities.

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

Without the collections of information required by the Regulation, OSHA could not effectively and efficiently determine an organization's capability to test and examine equipment, products,

or materials for safety, and to meet other qualification requirements specified in the Regulation. The Agency believes that the five-year span for submitting a renewal-of-recognition application provides NRTLs with an incentive to maintain their testing and certification capabilities.¹ These provisions help to ensure that equipment, products, or material used by employers in complying with the Agency's standards are safe.

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.**

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

No special circumstances exist that require respondents to collect information in the manner described in this item. While respondents may submit proprietary trade secret, or other confidential information in responding to collections of information required by the Regulation, the relevant law, as well as OSHA and Department of Labor policies and procedures, fully protect that information's confidentiality to the extent permitted by law (see, e.g., 29 CFR Part 70 (Department of Labor regulations on the production or disclosure of information or materials, including Freedom of Information Act regulations); 29 U.S.C. 664 (Occupational Safety and Health Act provision protecting the confidentiality of trade secrets)).

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

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

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

As required by 5 CFR 1320.8(d), OSHA published a Federal Register notice (Docket No. OSHA-2010-0007), on December 28, 2016, requesting comments from the public and other interested parties on the information collection requirements described in this supporting statement (81 FR 95650). The notice was part of a preclearance consultation program that provides interested parties with an opportunity to comment on OSHA's request for a revision and extension by the Office of Management and Budget (OMB) of a previous approval of the information collection requirements found in the NRTL Program requirements (29 CFR 1910.7) (OMB Control Number 1218-0147).

The Federal Register notice requested comments from the public and other interested parties about the revision and extension of the current information collection requirements, as well as an update to the NRTL Fee Schedule and NRTL Program Directive. The Agency received one favorable comment, from Mr. Michael Buchholz, General Manager; Curtis-Strauss LLC (see OSHA-2010-007-0010, available on www.regulations.gov). While Mr. Buchholz emphasized the importance of proper design of optional forms to facilitate usefulness, he also stated that

“using automated or technological information techniques, including in conjunction with optional standardized forms can be an appropriate way to reduce [the paperwork] burden.” OSHA agrees with Mr. Buchholz’s statement.

Additionally, OSHA published a Federal Register notice to seek comment from the public and other interested parties on proposed updates to the NRTL Fee Schedule on September 22, 2015 (80 FR 57222, Docket No. OSHA-2007-0031). In response to this Federal Register notice, the Agency received two comments from the public. These comments are available on [regulations.gov](http://www.regulations.gov). OSHA is currently reviewing these comments and intends to issue a Federal Register notice finalizing an updated Fee Schedule in the near future.

In developing the draft NRTL Directive and NRTL Program application forms discussed above, OSHA held stakeholder meetings about revising its existing policies, in March 2013, (78 FR 7460) and October 2014 (79 FR 29804). Once OSHA developed the draft NRTL Directive and forms, it posted the documents on its website and asked interested parties for comment (<https://www.osha.gov/dts/optca/nrtl/index.html>). OSHA received eight comments in response to its request. OSHA is currently reviewing these comments and intends to issue a final Directive in the near future. When the NRTL Program Directive and NRTL Fee Schedule is final, OSHA will submit a revised ICR to the Agency who will publish an Federal Register notice notifying the public of the transmission of the revision to OMB and allowing a 30-day public review and comment period.

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

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

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

The Agency provides no assurance of confidentiality regarding the information included in paperwork required by the Regulation. However, while respondents may submit proprietary trade secret, or other confidential information in responding to collections of information required by the Regulation, the relevant law, as well as OSHA and Department of Labor policies and procedures, fully protect that information's confidentiality to the extent permitted by law (see, e.g., 29 CFR Part 70 (Department of Labor regulations on the production or disclosure of information or materials, including Freedom of Information Act regulations); 29 U.S.C. 664 (Occupational Safety and Health Act provision protecting the confidentiality of trade secrets)).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the Agency considers the

questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of the provisions in the Regulation requires respondents to include sensitive information in their applications and notices.

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

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collection of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 13.**

Based on recent experience, OSHA estimates that each year, three organizations submit initial recognition applications, seven NRTLs submit expansion of recognition applications, three NRTLs submit renewal of recognition applications, and five organizations request to use Supplemental Programs (see https://www.osha.gov/dts/otpca/nrtl/nrtl_faq.html). The expansion applications may entail the use of additional testing categories or the use of additional testing or certification facilities.

In addition, based on recent experience, the Agency estimates it conducts 57 annual site visits, including 44 audits. To derive the estimate of 57 site visits, OSHA assumed that it would also conduct an assessment in conjunction with each of the three applications for initial recognition, each of the seven applications for expansion of recognition, and each of the three applications for

renewal of recognition OSHA estimates respondents file annually. This is a conservative estimate. In fact, the Agency knows, based on recent experience, that a site visit is only conducted in conjunction with one of the three applications for initial recognition, on average. The other two applications are usually rejected before the time for a site visit arrives due to failure to comply with NRTL Program Requirements. In addition, OSHA generally does not conduct a site visit for an expansion application unless the application involves new areas of testing for the NRTL or areas of concern to OSHA. Finally, OSHA generally does not conduct a site visit in conjunction with the NRTL's application for renewal unless OSHA has not conducted a site visit of both the NRTL headquarters and any recognized sites that have unique capabilities crucial to the NRTL's scope within the previous 18 months.

OSHA also estimates 75 electronic fee submissions per year. To derive this estimate, OSHA assumed there would be an electronic fee submission in conjunction with each of the three applications for initial recognition, each of the seven applications for expansion of recognition, each of the five supplemental program requests and each of the three applications for renewal of recognition OSHA estimates respondents file annually, and each of the 57 assessments OSHA estimates it conducts annually.

OSHA estimates the average burden hours per transaction (i.e., per each application, fee submission, or assessment), as follows: 160 hours per each initial recognition application; 10 hours per each expansion of recognition application (additional testing categories); 24 hours per each expansion of recognition application (additional testing sites); 5 hours per each renewal of recognition application; 15 minutes per each electronic fee submission; 20 hours per each supplemental program request and 16 hours per each assessment. OSHA based its estimates of burden hours for applications and assessments on the experience of an OSHA staff member who previously worked for a NRTL and, in that role, processed the collections of information at issue. OSHA also believes, based on the experience of its staff that it will take no longer than 15 minutes to submit a fee electronically via Pay.gov. OSHA therefore believes its estimates of burden hours are reasonable.

Table 1 below provides a summary of the burden hour and cost estimates required for organizations to complete these paperwork requirements.

Table 1
Summary of Burden-Hour and Cost Estimates
to Complete the Required Paperwork

Category	Total Number of Trans. ¹ per Category	Number of Org'ns ²	Burden Hours per Trans. ¹	Total Burden Hours	Cost
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D = A x C</i>	<i>E = D x hourly rate of \$46.80³</i>
Initial Recognition Applications	3	3	160	480	\$22,464.00
Expansion of Recognition Applications (additional testing categories)	5	5	10	50	\$2,340.00
Expansion of Recognition Applications (additional testing sites)	2	2	24	48	\$2,246.40
Renewal of Recognition Applications	3	3	5	15	\$702.00
Requests to Use Supplemental Programs	5	4	20	100	\$4,680
Electronic Fee Submission	75	20	.25	17.5	\$819.00
Annual Site Visits	57	20	16	912	\$42,682
Totals	150			1,623	\$75,933

¹ “Trans.” refers to “Transaction” or “Transactions” (i.e., applications, fee submissions, or assessments).

² “Org’ns” refers to “Organizations.”

³ OSHA’s hourly rate estimate of \$46.80 is based on the average hourly rate for an electrical engineer. OSHA derived this rate from Occupational Employment Statistics data for electrical engineers (17-2071), issued by the Bureau of Labor Statistics in May, 2015 (available at https://www.bls.gov/oes/current/oes_stru.htm, accessed December 22, 2016).

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

- **The cost estimate should be split into two components: (a) A total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) Prior to October 1, 1995; (2) to achieve regulatory compliance with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the government; or (4) as part of customary and usual business or private practices.

Respondents bear costs resulting from the collections of information required by the Regulation in the form of fees paid to OSHA for the various NRTL-related services OSHA provides. Table 2 below provides a summary of these estimated annual costs, including costs to respondents associated with OSHA’s: processing initial-recognition, expansion-of-recognition, and renewal-of-recognition applications; reviewing requests for use of the supplemental programs; and performing annual site visits. As shown in Table 2, the Agency requests a \$348,192 increase in the total annual cost burden to respondents resulting from the collection of information. This increase results from a determination that the costs should be considered a cost to respondents rather than a cost to the Federal government, since respondents reimburse the Government for expenses related to this program.

**Table 2
 Estimated Costs to NRTLs and Applicants
 for the Federal Government to Process Required Paperwork**

Category	Number of Org’ns ¹	Hours per Org’n ²	Total Hours	Total Hour Cost ³	Travel Cost ⁴	Total Cost
Initial-Recognition Applications	3	106	318	\$47,032	\$6,600	\$53,632
Expansion-of-Recognition Applications (additional testing categories)	5	15	75	\$11,093	\$11,000	\$22,093
Expansion-of-Recognition Applications (additional testing sites)	2	33	66	\$9,761	\$4,400	\$14,161
Renewal-of-Recognition Applications	3	12	36	\$5,324	\$6,600	\$11,924
Requests to Use Supplemental Programs	5	4	20	\$2,958	\$0	\$2,958
Annual Site Visits	57	14	798	\$118,024	\$125,400	\$243,424
Totals	75	184	1,313	\$194,192	\$154,000	\$348,192

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

²Average number of hours per organization.

³Based on an average staff cost of \$147.90 per hour that OSHA has proposed to determine certain fees it charges to NRTLs (See 76 FR 10500, 02/05/2011). This average cost per hour consists of the salary and fringe for "direct staff" members who perform the application reviews, site visits, and other activities required by the Regulation. Accordingly, direct costs are the wages and benefits paid to direct staff members of the NRTL Program. OSHA's authority for collecting and amending its fees is given under 29 CFR 1910.7(f).

⁴Total travel cost based on conservative assumption that all organizations visited for each type of activity. In general, travel cost is based on two assessors for three days (See 76 FR 10500, 02/05/2011).

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

There are no costs to the Federal Government, as all costs are passed through to respondents (see Item 13).

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

The Agency increased the number of respondents resulting in a 125 hour adjustment increase in total burden hours, and an increase of 22 responses. The \$348,192 adjustment cost increase results from a determination that the costs should be considered a cost to respondents rather than a cost to the Federal government, since respondents reimburse the Government for expenses related to this program.

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

OSHA will not publish tabulations or compilations of the information collected under the Regulation.

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

OSHA is not seeking such approval.

18. Explain each exception to the certification statement.

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 statistical methods.