

**VARIANCE REGULATIONS (29 CFR 1905.10, 1905.11 and 1905.12)**

**OMB Control Number: 1218-0265**

**Expires: February 28, 2022**

**SUPPORTING STATEMENT FOR THE  
INFORMATION COLLECTION REQUIREMENTS IN THE  
VARIANCE REGULATIONS (29 CFR 1905.10, 1905.11 and 1905.12)<sup>1</sup>  
(OMB Control No. 1218-0265 (January 2022))**

This ICR is requesting an extension of an already approved data collection.

**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 of 1970 (“the 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 implementation of “such rules and regulations as the Assistant Secretary of Labor for Occupational Safety and Health may deem necessary to carry out [his/her] responsibilities under the Act” (29 U.S.C. 657).

Under several provisions of the OSH Act, employers may apply for four different types of variances from the requirements of the Occupational Safety and Health Administration (OSHA) standards. Employers submit variance applications voluntarily to OSHA, and the applications specify alternative means of complying with the requirements of OSHA standards. The four types of variances are: temporary variances (Section 6(b)(6)(A) of the OSH Act; 29 U.S.C. 655); experimental variances (Section 6(b)(6)(C) of the OSH Act; 29 U.S.C. 655); permanent variances (Section 6(d) of the OSH Act; 29 U.S.C. 655); and national-defense variances (Section 16 of the OSH Act; 29 U.S.C. 665).<sup>2</sup> OSHA codified these statutory provisions under 29 CFR part 1905 (“Rules of Practice for Variances, Limitations, Variations, Tolerances, and Exemptions under the William-Steiger Occupational Safety and Health Act of 1970”).<sup>3</sup> The following paragraphs further describe each of these four types of variances.

**Types of Variances**

***Temporary variance.*** This variance delays the date on which an employer must comply with requirements of a newly issued OSHA standard. The employer must submit the variance application to OSHA after OSHA issues the standard, but prior to the

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<sup>1</sup>The purpose of this Supporting Statement is to analyze and describe the burden hours and costs associated with provisions of the variance regulations that contain paperwork requirements; it does not provide information, advice, or guidance on how to comply with, or enforce, these regulations.

<sup>2</sup>See Appendix A.

<sup>3</sup>See Appendix B.

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effective date of the standard. In the variance application, the employer must demonstrate an inability to comply with the standard by its effective date “because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date” (see Section 6(A)(i) of the OSH Act; 29 U.S.C. 655). Employers also must establish that they are “taking all available steps to safeguard [their] employees against the hazards covered by the standard,” and that they have “an effective program for coming into compliance with the standard as quickly as practicable” (see Section 6(A)(ii) and (iii) of the OSH Act; 29 U.S.C. 655).

***Experimental variance.*** OSHA may grant this variance as an alternative to complying with the requirements of a standard whenever it determines that the variance “is necessary to permit an employer to participate in an experiment . . . designed to demonstrate or validate new and improved techniques to protect the health or safety of employees” (see Section 6(C) of the OSH Act; 29 U.S.C. 655).

***Permanent variance.*** This variance authorizes employers (or groups of employers) to use alternative means of complying with the requirements of OSHA standards when the employers demonstrate, with a preponderance of evidence, that the proposed alternative protects employees at least as effectively as the requirements of the standard.

***National-defense variance.*** Under this variance, OSHA, after notice and an opportunity for a hearing, “may provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, or exceptions to and from” the requirements of its standards that it “finds are necessary and proper to avoid serious impairment of the national defense” (see Section 16 of the OSH Act; 29 U.S.C. 665). Such variances can be in effect no longer than six months without notifying the affected employees and affording them an opportunity for a hearing.

### **Information Requirements for Each Type of Variance**

No specific forms are prescribed under the OSH Act and the Rules of Practice for Variances (29 CFR 1905) for requesting these variances. The following paragraphs describe the information required when applying for each type of variance.<sup>4</sup>

***Temporary variance.*** Under 29 CFR 1905.10, employers must provide OSHA with the following information when applying for this variance:

- The name and address of the employer (1905.10(b)(1))
- The address of the place or places of employment involved (1905.10(b)(2))
- A specification of the standard, or portion thereof, from which the employer seeks a variance (1905.10(b)(3))

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<sup>4</sup>See also Appendix B of this Supporting Statement.

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- A statement by the employer, supported by representations from qualified individuals having first-hand knowledge of the facts represented, that the employer is unable to comply with the standard, or portion thereof, by its effective date, and a detailed statement of the reasons therefore (1905.10(b)(4))
- A statement by the employer of the steps taken and planned, with specific dates, to protect employees against the hazards covered by the standard (1905.10(b)(5))
- A statement of when the employer expects to be able to comply with the standard, and the steps taken and planned, with specific dates, to come into compliance with the standard (1905.10(b)(6))
- A statement of the facts establishing that the employer is unable to comply with the standard by its effective date because (1) the professional or technical personnel, or materials and equipment, needed to come into compliance with the standard are unavailable, or the employer cannot complete necessary construction or alteration of facilities, by the effective date; (2) the employer is taking all available steps to safeguard employees against the hazards covered by the standard; and (3) the employer has an effective program for coming into compliance with the standard as quickly as practicable (1905.10(b)(7))
- A statement for requesting a hearing as provided in this part (29 CFR 1905.10(b)(8));
- A statement that the employer informed affected employees of the application by: (1) giving a copy thereof to their authorized representative; (2) posting a statement, giving a summary of the application, and specifying where employees can examine a copy of the application at the place or places where notices to employees are normally posted; and (3) other appropriate means (1905.10(b)(9))
- A description of how the employer informed affected employees of the application and of their right to petition OSHA for a hearing (1905.10(b)(10))
- For a variance that is applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under Section 18 of the OSH Act, and involves a standard, or portion thereof, identical to a State standard effective under such plan (1905.10(b)(11)), provide: (1) a side-by-side comparison of the Federal OSHA standard, or portion thereof, and the State standard, or portion thereof, that are identical in substance and requirements (1905.10(b)(11)(i)); (2) a certification that the employer has not filed for a permanent variance on the same material facts for the same employment or place of employment with any State authority having jurisdiction under an approved State plan over any employment or place of employment covered in the application (1905.10(b)(11)(ii)); and (3) a description, including identification, of any pending citation issued to the employer for violations of the

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State standard, or portion thereof, by any State authority enforcing the standard under a State plan (1905.10(b)(11)(iii)).

**Temporary variance interim-order application.** Under 29 CFR 1905.10(c)(1), employers may apply for an interim order. Such an application must provide OSHA with the following information:

- A statement requesting an interim order, and that the order be effective until a decision is rendered on the application for the temporary variance filed previously or concurrently
- At the employer's discretion, the application for an interim order may include statements of fact and arguments as to why OSHA should grant the order.

**Experimental variance.** Section 6(b)(6)(C) of the OSH Act (29 U.S.C. 655) does not specify information requirements when applying for this variance. Moreover, 29 CFR 1905(1)(c) states, "The rules of practice in 29 CFR part 1905 do not apply to the granting of variances under section 6(b)(6)(C) [of the OSH Act]," and "Whenever appropriate, the procedure for granting such a variance shall be published in the *Federal Register*." However, based on the information specified for temporary, permanent and national-defense variances, OSHA requires that applications for this variance provide the following information:

- The name and address of the employer,
- The address of the place(s) of employment where the employer will perform the proposed experiment,
- A general description of the proposed experiment,
- An explanation of how the experiment will demonstrate or validate new and improved techniques to safeguard the health or safety of workers,
- An explanation of why a variance from a standard, or part thereof, is necessary to permit the employer to participate in the proposed experiment,
- A detailed description of the plan of the proposed experiment, including: (1) the names and qualifications of the supervisor of the experiment, and the supervisor's staff; and (2) the proposed duration of the experiment (in days), employee work time (in hours), and hours of machine operation (if applicable),
- A statement describing similar experiments or related research conducted by the employer, or by another party (if known); this statement should be detailed, and contain any available data, summaries, reports, and evaluations (or references thereto) of such experiments and research,

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- A statement that the employer has sufficient technological, economic, and personnel resources to perform the experiment properly, including proper controls,
- If applicable, a description of the employer's past or pending OSHA citations, and dispositions thereof, and any judicial and administrative proceedings involving breaches of the OSH Act or OSHA regulations to which the applicant is or was a party,
- A copy of the written statement of voluntary participation signed by each worker who has knowingly and willingly agreed to participate in the proposed experiment,
- Certification that the employer informed affected workers of the application by: (1) giving a copy of the application to the workers' authorized representative; (2) posting (at the place or places where the employer normally posts notices to workers) a statement giving a summary of the application and specifying where workers can examine a copy of it (instead of a summary statement, the employer may post a copy of the application); and (3) other appropriate means,
- A description of how the employer informed affected workers of the application and their right to petition OSHA for a hearing,
- A description, including identification, of any past or pending citations issued to the employer for violations of the State standard, or portion thereof, by any State authority enforcing the standard under a State plan approved under Section 18 of the OSH Act,
- Certification by the employer that the information contained in the application is, to the best of the employer's knowledge, accurate and true.

**Experimental variance Interim Order Application:** Section 6(b)(6)(C) of the OSH Act (29 U.S.C 655) does not specify information requirements when applying for an experimental variance interim order. However, OSHA determined such an application must provide OSHA with the following information:

- A statement requesting an interim order and that the order be effective until a decision is rendered on the application for the experimental variances filed previously or concurrently, and
- At the employer's discretion, the application for an interim order may include statements of fact and arguments as to why OSHA should grant the order.

**Permanent variance.** Under 29 CFR 1905.11, employers must provide OSHA with the following information when applying for this variance:

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- The name and address of the employer (1905.11(b)(1)),
- The address of the place or places of employment involved (1905.11(b)(2)),
- A description of the conditions, practices, means, methods, operations, or processes used or proposed for use by the employer (1905.11(b)(3)),
- A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed for use would provide employment and places of employment to workers that are as safe and healthful as the requirements specified by the standard from which a variance is sought (1905.11(b)(4)),
- Certification that the employer informed affected workers of the application (1905.11(b)(5)) by: (1) giving a copy of the application to the workers' authorized representative (1905.11(b)(5)(i)); (2) posting (at the place or places where the employer normally posts notices to workers) a statement giving a summary of the application and specifying where workers can examine it (instead of a summary statement, the employer may post a copy of the application) (1905.11(b)(5)(ii)); and (3) other appropriate means (1905.11(b)(5)(iii)),
- Any request for a hearing (1905.11(b)(6)),
- A description of how the employer informed affected workers of the application and their right to petition OSHA for a hearing (1905.11(b)(7)),
- For a variance that is applicable to employment or places of employment in more than one State, including at least one State with a State plan approved under Section 18 of the OSH Act, and involves a standard, or portion thereof, identical to a State standard effective under such plan (1905.11(b)(8)), provide: (1) a side-by-side comparison of the Federal OSHA standard, or portion thereof, and the State standard, or portion thereof, that are identical in substance and requirements (1905.11(b)(8)(i)); (2) a certification that the employer has not filed for a permanent variance on the same material facts for the same employment or place of employment with any State authority having jurisdiction under an approved State plan over any employment or place of employment covered in the application (1905.11(b)(8)(ii)); and (3) a description, including identification, of any pending citation issued to the employer for violations of the State standard, or portion thereof, by any State authority enforcing the standard under a State plan (1905.11(b)(8)(iii)).

**Permanent variance Interim Order Application.** Under 29 CFR 1905.11(c)(1), employers may apply for an interim order. Such an application must provide OSHA with the following information:

- A statement requesting an interim order, and that the order be effective until a decision is rendered on the application for the permanent variance filed previously or concurrently, and

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- At the employer's discretion, the application for an interim order may include statements of fact and arguments as to why OSHA should grant the order.

**National Defense variance.** Under 29 CFR 1905.12, employers must provide OSHA with the following information when applying for this variance:

- The name and address of the employer (1905.12(b)(1)),
- The address of the place or places of employment involved (1905.12(b)(2)),
- The standard, or portion thereof, from which the employer seeks a limitation, variation, tolerance, or exemption (1905.12(b)(3)),
- A statement showing that the limitation, variation, tolerance, or exemption sought is necessary and proper to avoid serious impairment of the national defense (1905.12(b)(4)),
- Any request for a hearing (1905.12(b)(5)), and
- A description of how the employer informed affected employees the application and of their right to petition OSHA for a hearing (1905.12(b)(6)).

**National Defense variance Interim Order Application.** Under 29 CFR 1905.12(c)(1), employers may apply for an interim order. Such an application must provide OSHA with the following information:

- A statement requesting an interim order, and that the order be effective until a decision is rendered on the application for the national defense variance filed previously or concurrently, and
- At the employer's discretion, the application for an interim order may include statements of fact and arguments as to why OSHA should grant the order.

Finally, OSHA developed optional standardized variance application forms and obtained the required OMB approval for the information collection requirement (OMB Control No. 1218-0265) in order to assist employers in meeting the paperwork requirements contained in these regulations. Additionally, in order to facilitate and simplify the completion of the complex variance applications and reduce the information collection burden on applicants, OSHA made the variance application forms accessible from its "How to Apply for a Variance" website (<http://www.osha.gov/dts/otpca/variances/index.html>).

**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.**

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Generally, OSHA uses the information provided in these optional standardized variance applications to: (1) evaluate the employer's claim that the proposed alternate means of compliance would provide affected workers with the requisite level of health and safety protection; (2) assess the technical feasibility of the proposed means of compliance; (3) determine that the employer notified affected workers of the variance application and their right to a hearing; and (4) verify that the application contains the administrative information required by the applicable variance regulations. The following paragraphs further describe how, by whom, and for what purpose the information provided in each of the four types of variances are to be used.

**Temporary variance.** The application allows OSHA to: (1) review and determine the efficacy of the employer's description of the steps taken and to be taken (including specific dates when appropriate) to protect workers against the hazards covered by the standard from which the employer is requesting the temporary variance; (2) evaluate the statement of when the employer expects to be able to comply with the standard, and the steps taken and to be taken by the employer (with specific dates when appropriate) to come into compliance with the standard; and (3) determine that the employer properly notified affected workers of the variance application and their right to a hearing. The application also contains the administrative information required by 1905.10(b).

**Experimental variance.** The application allows OSHA to: (1) review and determine the efficacy of the employer's explanation of how the experiment will demonstrate or validate new and improved techniques to safeguard the health or safety of workers, including a detailed description of the steps taken and/or to be taken to protect workers against the hazard(s) covered by the standard from which the experimental variance is sought; (2) evaluate the employer's claim that the experimental conditions would provide affected workers with health and safety protection that is at least as effective as the requirements specified by the standard from which the employer is requesting the experimental variance; and (3) determine that the employer properly notified affected workers of the variance application and their right to a hearing. The application also contains the administrative information specified by OSHA in Item 1 of this Information Collection Request (ICR).

**Permanent variance.** The application allows OSHA to: (1) evaluate the employer's claim that the alternative means of compliance would provide affected workers with health and safety protection that is at least equivalent to the means of compliance specified by the standard from which the employer is requesting the variance; (2) assess the technical feasibility of the alternative means of compliance; and (3) determine that the employer properly notified affected workers of the variance application and their right to a hearing. The application also contains the administrative information required by 1905.11(b).

**National-defense variance.** The application allows OSHA to: (1) evaluate the validity and appropriateness of the specification of the provision of the OSH Act to or from which the applicant seeks a limitation, variation, tolerance, or exemption; (2) evaluate the validity and appropriateness of showing that the limitation, variation, tolerance, or



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exemption sought is necessary and proper to avoid serious impairment of the national defense; and (3) determine that the employer properly notified affected workers of the variance application and their right to a hearing. The application also contains the administrative information required by 1905.12(b).

### **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.**

As noted in 29 CFR 1905.7(a), no specific form was required or made available for preparing a variance application. However, under 1905.7(a), employers choosing voluntarily to complete a variance application were required to submit a typewritten original and six copies of the application,<sup>5</sup> which provides the information required for the specific type of variance requested. Employers also had the option to submit supporting documents (e.g., protocols for safe-work practices, engineering schematics, procedures for using personal protective equipment). Under the provisions of 29 CFR 1905.7(b), requires that “[e]ach application . . . shall be subscribed by the [employer] filing the same or by [the employer’s] attorney or other authorized representative.”

In this ICR, OSHA is requesting that OMB extend its approval of the optional standardized variance application forms covering the four types of variances. As noted earlier, OSHA made these forms available to the public on its website. Each form lists the information required for the specific variance covered by that form (see the information requirements for each type of variance under Item 2 of this supporting statement), along with instructions for completing the form and explanatory material. Employers applying for a variance can complete and submit the appropriate application form online or download and complete the appropriate form, and mail it to OSHA. These forms serve to standardize, simplify and expedite the application process for employers, and also to ensure that the information provided on the application is complete and accurate.

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

The paperwork requirements of the variance regulations are specific to each employer involved, and no other source or agency duplicates these requirements, or can make the required information available to OSHA (i.e., the required information is available only from employers choosing to voluntarily complete and submit a variance application).

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

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<sup>5</sup>As a matter of practice, OSHA accepts original applications, written in any format, without additional copies.

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The information collection requirements of the variance regulations 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.**

The variance application process is voluntary on the part of employers. Without the information provided by a variance application, OSHA could not determine the efficacy of, and safety and health protection afforded by, an employer's alternative means of compliance.

**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 less 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 secrets, or other confidential information unless the agency can**

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

Only conditions 3 and 8 (from the question 7 bullets above) apply to the submission of variance applications. Regarding condition 3, 1905.7(a) requires employers that choose to file a variance application to submit a typewritten original and six copies of the application document. However, as a matter of practice and significant reduction of the paperwork burdens, OSHA accepts variance applications completed and submitted online (from OSHA's "How to Apply for a Variance" website (<http://www.osha.gov/dts/otpcal/variances/index.html>)) or single copies of original applications, written in any format. Regarding condition 8, the variance application process does not require employers to submit proprietary, trade secret, or confidential information. However, an employer must provide sufficient information about the alternative means of compliance for OSHA to determine its efficacy, as well as the safety and health protection it affords workers. If this information is proprietary, a trade secret, or confidential, OSHA has regulations that will protect this information (i.e., 29 CFR 1903.9 ("Trade secrets") and 29 CFR part 70 ("Production or disclosure of information or materials")).

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

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

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

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the *Federal Register* on November 10, 2021 (86 FR62569), Docket No. OSHA-2009-0024-0011 soliciting comments from the public and other interested parties on the information collection requirements contained in the Standards on Variances and Other Relief Under Section 6(b)(6)(A), (29 CFR 1905.10); Variances and Other Relief Under Section 6(d), (29 CFR 1905.11); and Limitations, Variations, Tolerances or Exemptions Under Section 16, (29 CFR 1905.12). The notice is part of a preclearance consultation program that provides interested parties with an opportunity to comment on OSHA's request for an extension by the Office of Management and Budget

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(OMB) of a previous approval of the information collection requirements found in the above standard. The Agency did not receive any comments in response to this notice.

**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.**

OSHA provides no assurance of confidentiality regarding the information included in paperwork required by the variance regulations. As noted above in Item 7, if employers provide proprietary, trade-secret, or confidential information in describing the alternative means of compliance, OSHA has regulations that will protect this information (i.e., 29 CFR 1903.9 (“Trade secrets”) and 29 CFR part 70 (“Production or disclosure of information or materials”)).

**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 variance regulations requires employers to include sensitive information in variance applications or related documents.

**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 estimate for estimates for each form.**

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- **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 14.**

**Respondent Burden Hour and Cost Burden Determinations**

Based on its experience, OSHA estimates that it receives approximately 12 variance applications each year; over 83% of variance applications are for permanent variances. Table 1 below provides a summary of the annual burden hours and cost required for employers to perform each of the tasks necessary to complete the paperwork requirements associated with variance applications.

The Agency determined the wage rate from mean hourly wage earnings to represent the cost of employee time. For the relevant standard occupational classification category, OSHA used the wage rates reported in the Bureau of Labor Statistics, U.S. Department of Labor. *Occupational Employment and Wage Statistics (OEWS), May 2020* [date accessed: August 25, 2021]. (OEWS data is available at <https://www.bls.gov/oes/tables.htm>. To access a wage rate, select the year, “Occupation Profiles,” and the Standard Occupational Classification (SOC) code.)

To account for fringe benefits, the Agency used the Bureau of Labor Statistics’ (BLS) *Occupational Employment and Wage Statistics (OEWS) (2020)*. Fringe markup is from the following BLS release: *Employer Costs for Employee Compensation* news release text; released 10:00 AM (EDT), June 17, 2021 (<https://www.bls.gov/news.release/pdf/ecec.pdf>). BLS reported that for civilian workers, fringe benefits accounted for 29.6 percent of total compensation and wages accounted for the remaining 70.4 percent. To calculate the loaded hourly wage for each occupation, the Agency divided the mean hourly wage rate by 1 minus the fringe benefits.

For the hourly cost calculations, OSHA chose a Human Resources Assistant (43-4161) with a loaded wage rate of \$30.17.

**Table 1 - Estimated Wage Rates**

<b>WAGE HOUR ESTIMATES</b>				
<b>Occupational Title</b>	<b>Standard Occupation Code</b>	<b>Mean Hour Wage Rate (A)</b>	<b>Fringe Benefits (B)</b>	<b>Loaded Hourly Wage Rate (C) = (A)/((1-(B)))</b>
Human Resources Assistant	43-4161	\$21.24	.296	\$30.17

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**Table 2  
Summary of Annual Estimated Burden Hours and Cost for  
Employers to Complete the Required Paperwork**

Information Collection Task	No. of Employers <sup>1</sup>	No. of Responses per Respondents	Burden Hours per Employer <sup>2</sup>	Total Burden Hours	Avg. Wage Rate	Total Cost Burden <sup>3</sup>
Locate and assemble information required to complete the variance application, including devising an alternative means of compliance, gathering or developing supporting documentation (e.g., safety policies, safe-work procedures, work-area exposure monitoring data, training materials)	12	1	16	192	\$30.17	5792.64
Inform affected workers of decision to seek a variance	12	1	4	48	\$30.17	\$1,448.16
Complete the variance application (either online or hard copy)	12	1	8	96	\$30.17	\$2,896.32
Assemble the application documents, including copying or scanning, collating, and electronically submitting or mailing	12	1	2	24	\$30.17	\$724.08
Host an OSHA site visit	0.25 <sup>4</sup>		24	6	\$30.17	\$181.02
Totals	-		-	366	---	\$11,042

<sup>1</sup>These figures assume one variance application per employer.<sup>2</sup>OSHA assumes that burden hours are similar for each of the four types of variances.<sup>3</sup>Based on an average hourly rate of \$30.17 (wages and benefits) for a Human Resources Assistant.<sup>4</sup>OSHA conducts about one site visit every 4 years.

**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 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.**

**VARIANCE REGULATIONS (29 CFR 1905.10, 1905.11 and 1905.12)**

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**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.**

The cost determination made under Item 12 accounts for the total annual cost burden to respondents or recordkeepers resulting from this collection of information requirement.

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

The total annual cost to the Federal government associated with processing variance applications submitted by employers is \$85,464. In determining this cost, OSHA assumes that the typical staff member processing a variance application is an industrial hygienist at the 13/5 pay grade and step level, with an hourly wage rate of \$50.04<sup>6</sup>. Other occupational expenses, such as equipment, overhead, and support-staff expenses, would occur without the existence of these collection-of-information requirements; therefore, the Agency considers these expenses to be normal operating expenses and does not include them in estimating cost. Table 3 below provides a summary of the estimated annual hours and cost to the Federal government to perform each of the tasks associated with the paperwork requirements specified by the variance regulations.

Table 3

Summary of Annual Federal Government Estimated Hours and Cost To the Federal Government to Process the Required Paperwork

Information-Collection Task	Number of Variances	Hours per Task	Total Hours	Total Cost <sup>1</sup>
Receive and initially process variance application	12	4	48	\$2,401

<sup>6</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/RUS_h.pdf)

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Information-Collection Task	Number of Variances	Hours per Task	Total Hours	Total Cost <sup>1</sup>
Establish and maintain a variance-application case file	12	4	48	\$2,401
Conduct initial administrative review of variance application	12	5	60	\$3,002
Draft and send letter to employer acknowledging receipt of application	12	3	36	\$1,801
Contact employer to obtain missing information or to correct minor errors in application	12	3	36	\$1,801
Conduct technical review of application	12	80	960	\$48,038
Draft and send a denial letter	11	10	110	\$5,504
Plan and conduct OSHA site visit	.25	40	10	\$500
Draft application and interim order for publication	1	200	200	\$10,008
Review comments and draft variance grant for publication	1	200	200	\$10,008
Totals	-	-	1,708	\$85,464

<sup>1</sup>Based on an average staff cost of \$50.04 per hour.**15. Explain the reasons for any program changes or adjustments.**

There are no adjustments or program changes associated with this ICR. The Agency is requesting that it retain its previous estimate of 366 burden hours.

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

OSHA will not publish the information collected under the variance regulations.

**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 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.



**VARIANCE REGULATIONS (29 CFR 1905.10, 1905.11 and 1905.12)**

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**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.**

This Supporting Statement does not contain any collection of information requirements that employ statistical methods.