

4, 4' Methylenedianiline in Construction Standard
OMB Control Number 1218-0183
Expiration Date: 7-31-2022

**SUPPORTING STATEMENT FOR THE
INFORMATION COLLECTION REQUIREMENTS OF THE
4, 4'-METHYLENEDIANILINE IN CONSTRUCTION STANDARD
(29 CFR 1926.60)
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NUMBER 1218-0183 (July 2022)¹**

This is a request to extend a currently 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 Occupational Safety and Health Administration (OSHA) cites sections of the Occupational Safety and Health Act (OSH Act) to justify collecting information. Sections of the Occupational Safety and Health Act may be found at 29 U.S.C. Chapter 15 – Occupational Safety and Health
<https://www.law.cornell.edu/uscode/text/29/chapter-15>

The main purpose of the Occupational Safety and Health Act (“OSH Act or “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 OSHA Act the development and promulgation of occupational safety and health standards” (29 U.S.C. 651). 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 651).

To protect worker health, the OSH Act authorizes the Occupational Safety and Health Administration (“OSHA” or “agency”) to develop standards that provide for “monitoring or measuring worker exposure” to occupational hazards and “prescribe the type and frequency of medical examinations and other tests which shall be made available [by the employer] to workers exposed to such hazards . . . to most effectively determine whether the health of such workers is adversely affected by such exposure” (29 U.S.C. 655). Moreover, the Act directs OSHA to “issue regulations requiring employers to maintain accurate records of worker exposures to potentially

¹ The purpose of this supporting statement is to analyze and describe the burden hours and costs associated with provisions of the Standard that contain paperwork requirements; it does not provide information or guidance on how to comply with, or to enforce, the Standard.

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toxic materials or other harmful physical agents which are required to be monitored and measured . . . " (29 U.S.C. 657). In addition, the OSH Act mandates that "[e]ach employer shall make, keep and preserve, and make available to the Secretary [of Labor] . . . such records regarding [the employer's] activities relating to this Act as the Secretary . . . may prescribe by regulation as necessary or appropriate for the enforcement of this Act . . . " (29 U.S.C. 657).

The Act authorizes the agency to issue standards that "prescribe the use of labels or other appropriate forms of warning as are necessary to insure that workers are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure" (29 U.S.C. 655). Additionally, the OSH Act mandates 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).

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

The major purpose of these requirements is to limit the incidence of communicable disease outbreaks in temporary labor camps. Compliance with this aspect of the Standard is necessary for the maintenance of a safe and healthful work environment.

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

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

Purpose:

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

B. Emergency situations (§ 1926.60(e))

Written plan (§ 1926.60(e)(1))

§ 1926.60(e)(1)(i)

A written plan for emergency situations shall be developed for each construction operation where there is a possibility of an emergency. The plan shall include procedures where the employer

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identifies emergency escape routes for his employees at each construction site before the construction operation begins. Appropriate portions of the plan shall be implemented in an emergency.

§ 1926.60(e)(1)(ii)

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

§ 1926.60(e)(1)(iii)

The plan shall specifically include provisions for alerting and evacuating affected employees as well as the applicable elements prescribed in [29 CFR 1910.38](#) and [29 CFR 1910.39](#), “Emergency action plans” and “Fire prevention plans,” respectively.

Purpose:

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

C. Exposure monitoring (§ 1926.60(f))

General (§ 1926.60(f)(1))

§ 1926.60(f)(1)(i)

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

§ 1926.60(f)(1)(ii)

Representative employee exposure shall be determined on the basis of one or more samples representing full shift exposure for each shift for each job classification in each work area where exposure to MDA may occur.

§ 1926.60(f)(1)(iii)

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

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exposure for that operation during one shift.

Purpose:

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

Initial monitoring (§ 1926.60(f)(2))

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

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

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

Purpose:

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

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

§ 1926.60(f)(3)(i)

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

§ 1926.60(f)(3)(ii)

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

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§ 1926.60(f)(3)(iii)

Employers conducting MDA operations within a regulated area can forgo periodic monitoring if the employees are all wearing supplied-air respirators while working in the regulated area.

§ 1926.60(f)(3)(iv)

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

Purpose:

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

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

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

Purpose:

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

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

§ 1926.60(f)(7)(i)

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

§ 1926.60(f)(7)(ii)

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

Purpose:

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

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

Visual monitoring (§ 1926.60(f)(8))

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

§ 1926.60(f)(8)(i) - Determine the source of exposure;

§ 1926.60(f)(8)(ii) - Implement protective measures to correct the hazard; and

§ 1926.60(f)(8)(iii) - Maintain records of the corrective actions in accordance with paragraph (o) of this section.

Purpose:

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

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

Compliance program (§ 1926.60(h)(5))

§ 1926.60(h)(5)(i)

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

§ 1926.60(h)(5)(ii)

Upon request, this written program shall be furnished for examination and copying to the Assistant Secretary,² the Director,³ affected workers, and designated worker representatives. The employer shall review and, as necessary, update such plans at least once every 12 months to make certain they reflect the current status of the program.

Purpose:

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

OSHA has determined that the requirement for employers to make information available upon request to the Assistant Secretary is not a collection of information; OSHA typically requests access to records during an inspection, and information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). While NIOSH may use records collected from employers for research purposes, the agency does not anticipate NIOSH to request employers to make available records during the approval period. Therefore, the burden for the employer to make this information available to NIOSH is zero. OSHA is not taking burden for this activity under Item 12 of this Supporting Statement.

E. Respiratory Program (§ 1926.60(i))

²“Assistant Secretary” means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

³“Director” means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

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General (§ 1926.60(i)(1))

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

§ 1926.60(i)(1)(i) - Periods necessary to install or implement feasible engineering and work practice controls.

§ 1926.60(i)(1)(ii) - Work operations, such as maintenance and repair activities and spray-application processes, for which engineering, and work practice controls are not feasible.

§ 1926.60(i)(1)(iii) - Work operations for which feasible engineering and work practice controls are not yet sufficient to reduce employee exposure to or below the PELs.

§ 1926.60(i)(1)(iv) - Emergencies.

Respiratory program (§ 1926.60(i)(2))

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

Purpose:

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

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

Removal and storage (§ 1926.60(j)(2))

§ 1926.60(j)(2)(v)

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

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Purpose:

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

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

§ 1926.60(j)(3)(iv)

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

§ 1926.60(j)(3)(v)

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

Purpose:

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

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

Signs and labels (§ 1926.60(l)(2))

§ 1926.60(l)(2)(i)(A)

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

DANGER

MDA

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

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RESPIRATORY PROTECTION AND PROTECTIVE CLOTHING
MAY BE REQUIRED IN THIS AREA

AUTHORIZED PERSONNEL ONLY

§ 1926.60(l)(2)(i)(B)

Prior to June 1, 2016, employers may use the following legend in lieu of that specified in paragraph (l)(2)(i)(A) of this section:

DANGER

MDA

MAY CAUSE CANCER

LIVER TOXIN

AUTHORIZED PERSONNEL ONLY

RESPIRATORS AND PROTECTIVE CLOTHING
MAY BE REQUIRED TO BE WORN IN THIS AREA

§ 1926.60(l)(2)(ii)(A)

The employer shall ensure that labels or other appropriate forms of warning are provided for containers of MDA within the workplace. The labels shall comply with the requirements of § 1910.1200(f) and shall include at least the following information for pure MDA and mixtures containing MDA:

DANGER

CONTAINS MDA

MAY CAUSE CANCER

CAUSES DAMAGE TO THE LIVER

§ 1926.60(l)(2)(ii)(B)

Prior to June 1, 2015, employers may include the following information workplace labels in lieu of the labeling requirements in paragraph (l)(2)(ii)(A) of this section:

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For pure MDA:

DANGER
CONTAINS MDA
MAY CAUSE CANCER
LIVER TOXIN

For mixtures containing MDA:

DANGER
CONTAINS MDA
CONTAINS MATERIALS WHICH MAY CAUSE CANCER
LIVER TOXIN

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Purpose:

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

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

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

§ 1926.60(l)(3)(i)

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

§ 1926.60(l)(3)(ii)

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

§ 1926.60(l)(3)(ii)(A) – Provides an explanation of the contents of this section, including appendices A and B, and indicate to employees where a copy of the standard is available;

§ 1926.60(l)(3)(ii)(B) - Describe the medical surveillance program required under paragraph (n) of this section, and explain the information contained in appendix C of the section; and

§ 1926.60(l)(3)(ii)(C) - Describe the medical removal provision required under paragraph (n) of this section.

Purpose:

Training is essential to inform workers of the health hazards of MDA exposure and provide them with the understanding required to minimize health hazards. In addition, training provides

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information to workers that enable them to recognize how and where MDA exposure occurs, and what steps to take, including work practices, to avoid or limit such exposure. Another benefit of training is the disclosure of the information presented to workers on warning signs and labels. Workers must understand the information and be aware of their actions to avoid or minimize MDA exposure. The agency has determined that the requirement for employers to make records available upon request to the Assistant Secretary is no longer considered a collection of information. OSHA typically requests access to records during an inspection, and information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2).

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

§ 1926.60(l)(4)(i)

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

§ 1926.60(l)(4)(ii)

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

Purpose:

Allowing workers to have access to the training materials ensures that the employer provided them with the required information and training, thereby assuring that the workers can minimize or eliminate workplace exposure to MD. OSHA no longer considers this requirement a collection of information under the Paperwork Reduction Act, as information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). While NIOSH may use records collected from employers for research purposes, the agency does not anticipate NIOSH to request employers to make available records during the approval period. Therefore, the burden for the employer to make this information available to NIOSH is zero.

H. Medical surveillance (§ 1926.60(n))

General (§ 1926.60(n)(1))

§ 1926.60(n)(1)(i)

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

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§ 1926.60(n)(1)(i)(A) - Employees exposed at or above the action level for 30 or more days per year;

§ 1926.60(n)(1)(i)(B) - Employees who are subject to dermal exposure to MDA for 15 or more days per year;

§ 1926.60(n)(1)(i)(C) - Employees who have been exposed in an emergency;

§ 1926.60(n)(1)(i)(D) - Employees whom the employer, based on results from compliance with paragraph (f)(8) of this section, has reason to believe are being dermally exposed; and

§ 1926.60(n)(1)(i)(E) - Employees who show signs or symptoms of MDA exposure.

Initial examinations (§ 1926.60(n)(2))

§ 1926.60(n)(2)(i)

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

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

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

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

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

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

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

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

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

physician.

§ 1926.60(n)(2)(ii)

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

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

§ 1926.60(n)(3)(i)

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

§ 1926.60(n)(3)(i)(A) - A brief history regarding any new exposure to potential liver toxins, changes in drug, tobacco, and alcohol intake, and the appearance of physical signs relating to the liver, and the skin;

§ 1926.60(n)(3)(i)(B) - The appropriate tests and examinations, including liver function tests and skin examinations; and

§ 1926.60(n)(3)(i)(C) - Appropriate additional tests or examinations as deemed necessary by the physician.

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

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

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

Where the employee develops signs and symptoms associated with exposure to MDA, the employer shall provide the employee with an additional medical examination, including liver function tests. Repeat liver function tests shall be conducted on the advice of the physician. If the results of the tests are normal, tests must be repeated two to three weeks from the initial

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testing. If the results of the second set of tests are normal and on the advice of the physician, no additional testing is required.

Purpose:

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

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

§ 1926.60(n)(6)(ii)

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

§ 1926.60(n)(6)(ii)(A) - The employee informing the employer that he or she intends to seek a second medical opinion, and

§ 1926.60(n)(6)(ii)(B) - The employee is initiating steps to make an appointment with a second physician.

Purpose:

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

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

§ 1926.60(n)(7)(i)

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

§ 1926.60(n)(7)(i)(A) - A copy of this regulation and its appendices;

§ 1926.60(n)(7)(i)(B) - A description of the affected employee's duties as they relate to

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the employee's potential exposure to MDA;

§ 1926.60(n)(7)(i)(C) - The employee's current actual or representative MDA exposure level;

§ 1926.60(n)(7)(i)(D) - A description of any personal protective equipment used or to be used; and

§ 1926.60(n)(7)(i)(E) - Information from previous employment related medical examinations of the affected employee.

§ 1926.60(n)(7)(ii)

The employer shall provide the foregoing information to a second physician under this section upon request either by the second physician or by the employee.

Purpose:

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

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

§ 1926.60(n)(8)(i)

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

§ 1926.60(n)(8)(i)(A) - The occupationally pertinent results of the medical examination and tests;

§ 1926.60(n)(8)(i)(B) - The physician's opinion concerning whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to MDA;

§ 1926.60(n)(8)(i)(C) - The physician's recommended limitations upon the employee's exposure to MDA or upon the employee's use of protective clothing or equipment and respirators; and

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§ 1926.60(n)(8)(i)(D) - A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions resulting from MDA exposure which require further explanation or treatment.

Purpose:

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

Medical removal (§ 1926.60(n)(9))

§ 1926.60(n)(9)(v)(C)

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

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

Purpose:

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

I. Recordkeeping (§ 1926.60(o))

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

§ 1926.60(o)(1)(i)

Where the employer has relied on objective data that demonstrate that products made from or containing MDA are not capable of releasing MDA or do not present a dermal exposure problem

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under the expected conditions of processing, use, or handling to exempt such operations from the initial monitoring requirements under paragraph (f)(2) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

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

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

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

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

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

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

§ 1926.60(o)(1)(iii)

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

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Purpose:

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

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

§ 1926.60(o)(2)(i)

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

§ 1926.60(o)(2)(ii)

The record shall include information that reflect the following conditions:

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

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

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

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

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

§ 1926.60(o)(2)(iii)

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

Purpose:

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

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

§ 1926.60(o)(4)(i)

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

§ 1926.60(o)(4)(ii)

This record shall include at least the following information:

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

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

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

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

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

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

§ 1926.60(o)(4)(iii)

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

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Medical surveillance (§ 1926.60(o)(5))

§ 1926.60(o)(5)(i)

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

§ 1926.60(o)(5)(ii)

The record shall include at least the following information:

§ 1926.60(o)(5)(ii)(A) - The name of the employee;

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

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

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

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

§ 1926.60(o)(5)(iii)

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

§ 1926.60(o)(5)(iv)

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

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Purpose:

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

Training records (§ 1926.60(o)(6))

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

Purpose:

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

Availability (§ 1926.60(o)(7))

§ 1926.60(o)(7)(i)

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

§ 1926.60(o)(7)(ii)

The employer, upon request, shall make any exposure records required by paragraphs (f) and (n) of this section available for examination and copying to affected employees, former employees, designated representatives, and the Assistant Secretary, in accordance with 29 CFR 1910.33(a)-(e) and (g)-(i).

§ 1926.60(o)(7)(iii)

The employer, upon request, shall make employee medical records required by paragraphs (n) and (o) of this section available for examination and copying to the subject employee, anyone having the specific written consent of the subject employee, and the Assistant Secretary, in accordance with 29 CFR 1910.33.

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Purpose:

The OSHA compliance officer uses these records to assess employer compliance with the pertinent requirements of the Standard, while NIOSH may compile these records for research purposes. OSHA no longer considers this requirement a collection of information. OSHA typically requests access to records during an inspection, and information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). While NIOSH may use records collected from employers for research purposes, the agency does not anticipate NIOSH to request employers to make available records during the approval period. Therefore, the burden for the employer to make this information available to NIOSH is zero. Workers and worker representatives use exposure-monitoring and medical surveillance records to assess worker medical status throughout employment, to evaluate the effectiveness of the employer's exposure-reduction program, and for other reasons.

Transfer of records (§ 1926.60(o)(8))

§ 1926.60(o)(8)(i)

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

The standard requires employers ceasing to do business to transfer records to a successor employer. Employers must comply with the transfer requirements in § 1910.1020(h).

Paragraph (h) of § 1910.1020 requires employers who cease to do business to transfer medical and exposure-monitoring records to the successor employer, who then must receive and maintain the records.

If no successor employer is available, the employer must at least three months before ceasing business, notify current workers who have records of their right to access these records.

OSHA considers the employer's transfer of records to a successor employer usual and customary communication during the transition from one employer to a successor employer. In this regard, the employer would communicate the location of all records, including worker exposure-monitoring and medical records, at the facility to the successor employer during the transfer of business operations, as a matter of usual and customary business practice.

In addition, OSHA accounts for the burden hours and costs resulting from the worker notification requirements under the Information Collection Request (ICR) for its Access to Employee Exposure and Medical Records Standard (§ 1910.1020), OMB Control No. 1218-0065.

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

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

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

The requirements to collect and maintain information are specific to each employer and worker involved, and no other source or agency duplicates these requirements or can make the required information available to OSHA (i.e., the required information is available only from employers). At this time, there is no indication that any alternate information source is available.

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

The information collected does not have a significantly 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 the burden.**

The agency believes that the information collection frequencies required by the Standard are the minimum frequencies necessary to effectively monitor the exposure and health status of workers exposed to MDA, and thereby fulfill its mandate “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” as specified by the OSH Act at 29 U.S.C. 651. Accordingly, if employers do not perform the required information collections or delay providing this information, workers will have an increased probability of developing cancer, liver dysfunction, and dermal injuries because of their MDA exposures.

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

- **requiring respondents to report information to the agency more often than quarterly.**

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

Under paragraph (f)(7) of the Standard, employers must notify each worker of the exposure-monitoring results as soon as possible but no later than 5 working days after receiving these results. Employers may notify workers either individually in writing, or by posting the monitoring results in an appropriate location that is accessible to affected exposed workers. Paragraph (n)(6)(ii) requires employers to promptly notify workers of their right to seek a second medical opinion after each initial medical examination or consultation. Workers may be required to fulfill certain conditions within 15 days to participate in the second opinion. Also, if the exposure-monitoring results exceed the PEL, the employer must inform the exposed workers of the corrective action the employer is taking to prevent overexposure to MDA. In addition, paragraph (n)(8)(i) of the Standard requires employers to provide a copy of the physician's written opinion to the covered worker within 15 days after the employer receives the opinion. In addition, under OSHA's Access to Employee Exposure and Medical Records Standard (§ 1910.1020), employers must maintain exposure monitoring results for at least 30 years. The retention of employee exposure records is necessary to assess the relationship between employee exposure and subsequent development of medical diseases.

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.**

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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 the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 506(c)(2)(A)), OSHA published a notice in the Federal Register on May 2, 2022, soliciting comments on its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Methylenedianiline in Construction (29 CFR 1926.60), (Docket No. OSHA-2012-0031). This notice is part of a preclearance consultation program that provides interested parties the opportunity to comment on OSHA's request for an extension by OMB of previous approval of the information collection requirements found in the above Standard. The agency did not receive any comments submitted in response to this notice.

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

No payments or gifts will be provided to the respondents.

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

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

- 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 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 obtain their consent.**

There are no provisions in the Standard requiring sensitive information.

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

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates.**

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Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage-rate categories.**

Respondent Burden Hour and Cost Determinations

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: December 22, 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), December 17, 2021 (<https://www.bls.gov/news.release/pdf/ecec.pdf>). BLS reported that for civilian workers, fringe benefits accounted for 29.2 percent of total compensation, and wages accounted for the remaining 70.8 percent. To calculate the loaded hourly wage for each occupation, the agency divided the mean hourly wage rate minus the fringe benefits.

Table 1- Estimated Wage Rates

WAGE HOUR ESTIMATES FOR CHEMICAL MANUFACTURING				
Occupational Title	Standard Occupation Code (SOC)	Mean Hourly Wage Rate (A)	Fringe Benefits (B)	Loaded Hourly Wage Rate (C) = (A)/(1-(B))
First-Line Supervisors/Managers of Construction Trades	47-1011	\$35.09	0.292	\$49.56
Painters, Construction and Maintenance Workers	47-2141	\$22.33	0.292	\$31.54
Secretaries	43-6014	\$19.43	0.292	\$27.44
Occupational Health & Safety Specialists	19-5011	\$37.55	0.292	\$53.04

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According to the Preliminary Regulatory Impact Analysis (PRIA)⁴ completed for the proposed Standard, worker exposure to MDA occurs while applying coatings containing MDA to steel, concrete, and other construction-related surfaces. The Mediated Rulemaking Advisory Committee (“Committee”) convened to negotiate the Standard, as well as OSHA made a series of reasonable assumptions in estimating employee exposure to MDA. The Committee and OSHA assumed that 66 establishments each employing six employees apply MDA-based coatings. The National Paint and Coatings Association stated that MDA-based products is rarely used in paint and coating products. OSHA assumes that workers at 33 establishments, each with ten job sites each year at which coatings are applied, or 330 job sites annually where potential exposures might occur. OSHA originally assumed that, during these applications, 400 employees receive exposure to the MDA-based coatings each year. The agency now estimates that one-half this number, or 200 workers, receive exposures.

A summary of the burden hour and cost estimates for the information collection requirements specified by the Standard is provided in Table 1.

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

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

OSHA assumes that each of the 330 job sites in which employers apply MDA-based coatings is a multi-employer worksite. The agency estimates a manager takes 15 minutes (15/60 hour) to inform other employers at each of these job sites, resulting in the following total annual burden hour and cost estimates:

Burden hours: 330 job sites × 15/60 hour = 83 hours

Cost: 83 hours × \$49.56 = \$4,113

B. Emergency situations (§ 1926.60(e))

Written plan (§ 1926.60(e)(1))

According to the PRIA, a supervisor takes one hour (1 hour) to review and revise a written emergency plan for each establishment (for a total of 33 hours for the 33 establishments covered by the Standard), while a secretary spends one-half hour (30/60 hour) typing the revised plan and distributing it to job sites where there is a potential for emergencies. OSHA estimates that 10% of the 330 job sites, or 33 job sites, have written emergency plans. Therefore, the total yearly burden hour and cost estimate for this provision is:

⁴The PRIA was not changed and was also the final economic analysis for the Standard.

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Burden hours: $(33 \text{ establishments} \times 1 \text{ hour}) + (33 \text{ jobsites} \times 30/60 \text{ hour}) = 50 \text{ hours}$
Cost: $(33 \text{ hours} \times \$49.56) + (17 \times \$27.44) = 1635.48 + 466.48 = \$2,102$

C. Exposure monitoring (§ 1926.60(f))

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

Initial monitoring (§ 1926.60(f)(2))

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

Burden hours: $33 \text{ job sites} \times 2 \text{ hours} = 66 \text{ hours}$
Cost: $66 \text{ hours} \times \$53.04 = \$3,501$

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

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

Burden hours: $33 \text{ workers} \times 2 \text{ hours} = 66 \text{ hours}$
Cost: $66 \text{ hours} \times \$53.04 = \$3,501$

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

The agency assumes that a secretary takes five minutes (5/60 hour) to compile and post the written monitoring results and performs this task twice a year as required by paragraph (f)(3) of the Standard (“Periodic monitoring and monitoring frequency”). Accordingly, OSHA estimates that the total annual burden hours and costs resulting from this requirement are:

Burden hours: $33 \text{ establishments} \times 2 \text{ postings} \times 5/60 \text{ hour} = 6 \text{ hours}$

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Cost: 6 hours × \$27.44 = \$165

Visual monitoring (§ 1926.60(f)(8))

The agency believes that each establishment visually inspects workers for MDA exposure once a year. An occupational health and safety specialist requires one-half hour (30/60 hour) to conduct an inspection and establish and maintain a record of corrective actions. Therefore, the total annual burden hours and cost estimated for this task are:

Burden hours: 33 establishments × 30/60 hour = 17 hours

Cost: 17 hours × \$53.04 = \$902

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

Compliance program (§ 1926.60(h)(5))

To estimate burden hours, OSHA assumes that an occupational health and safety specialist at each of the 33 establishments spends one and one-half hours (90/60 hours) once a year reviewing and updating existing compliance plans. This requirement results in the following estimated total annual burden hours and cost:

Burden hours: 33 establishments × 90/60 hours = 50 hours

Cost: 50 hours × \$53.04 = \$2,652

E. Respiratory Program (§ 1926.60(i))

As noted under Item 2 above, the respiratory protection collections of information are contained in the Respiratory Protection ICR, OMB Control Number 1218-0099 and thus are omitted here.

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

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

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

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

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

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

Signs and labels (§ 1926.60(l)(2))

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

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

As noted in Section 2 above, The agency has determined that the requirement for employers to make records available upon request to the Assistant Secretary is no longer considered a collection of information. OSHA typically requests access to records during an inspection, and information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2), so no burden or cost is included for this item.

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

Similarly, OSHA no longer considers the requirement to provide a copy of the regulation and training materials a collection of information under the Paperwork Reduction Act, as information collected by the agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). The agency does not anticipate NIOSH to request employers to make available records during the approval period, so no burden or cost is included for this item.

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

Initial examinations (§ 1926.60(n)(2))

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OSHA assumes that establishments covered by the Standard hire 138 covered workers each year (200 total covered workers x 69% turnover rate⁵). Each of these workers must remain away from the job for one and one-half hours (90/60 hours) to take the initial medical examination. Accordingly, the total annual burden-hour and cost estimates for this requirement are:

Burden hours: 138 examinations × 90/60 hours = 207 hours
Cost: 207 hours × \$31.54 = \$6,528

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

OSHA estimates that each of the 200 covered workers receives an annual examination and that each examination takes one and one-half hours (90/60 hours) of worker time. The resulting total annual burden hour and cost estimates for this provision are:

Burden hours: 200 examinations x 90/60 hours = 300 hours
Cost: 300 hours x \$31.54 = \$9,462

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

The agency believes that 1% (2) of the 200 covered workers require an emergency or additional medical examination each year. Each of these workers remains away from the job one and one-half hours (90/60 hours) to receive the medical examination. Thus, the total annual burden hour and cost estimates for this requirement are:

Burden hours: 2 examinations × 90/60 hours = 3 hours
Cost: 3 hours × \$31.54 = \$95

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

OSHA assumes that 1% (2) of the covered workers undergo multiple physician reviews yearly, either because of emergency MDA exposure or they have signs or symptoms of MDA exposure. They spend one-half hours (90/60 hour) taking the examination. Accordingly, the estimated total annual burden hours and cost for this examination are:

Burden hours: 2 reviews × 90/60 hours = 3 hours
Cost: 3 hours × \$31.54 = \$95

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

⁵This annual turnover rate corresponds to Series ID JTU2300000000000000TSR, "Total Separations Rate for the Construction Industry, not seasonally adjusted." (Source: "2020 Job Openings and Labor Turnover Survey," U.S. Department of Labor, Bureau of Labor Statistics.)

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For each medical examination or multiple-physician review administered to a worker, the agency believes that it takes a secretary five minutes (5/60 hour) to compile the required information and provide it to the physician. Based on previous determinations made in this ICR, the Standard requires 138 initial examinations, 200 periodic examinations, two emergency examinations and additional examinations, and two multiple physicians reviews each year for 342 tests/reviews. These examinations/reviews result in the following total annual burden hour and cost estimates:

Burden hours: 342 examinations/reviews × 5/60 hour = 29 hours

Cost: 29 hours × \$27.44 = \$796

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

OSHA assumes a secretary spends five minutes (5/60 hour) delivering a copy of the physician's written opinion to each worker who receives a medical examination or multiple-physician review. Based on the determination made under "Information provided to the examining physician (29 CFR 1926.60(n)(7))" above, employers administer 342 examinations/reviews each year that result in a physician's opinion covered by this provision. Thus, the estimated total annual burden hours and cost of this requirement are:

Burden hours: 342 examinations/reviews × 5/60 hour = 29 hours

Cost: 29 hours × \$27.44 = \$796

Medical removal (§ 1926.60(n)(9))

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

I. Recordkeeping (§ 1926.60(o))

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

The agency assumes that employers rely on objective data or historical monitoring data for 90% of the 330 job sites each year, or 297 job sites. OSHA estimates that a supervisor takes 10 minutes (10/60 hours) for each job site to justify and document the use of objective data or historical monitoring. Thus, the estimated total annual burden hours and cost of this requirement are:

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Burden hours: 297 job sites × 10/60 hour = 50 hours
Cost: 50 hours × \$49.56 = \$2,478

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

OSHA assumes that a secretary takes five minutes (5/60 hours) to establish, maintain, and update each exposure-monitoring record. As noted above, under “Exposure monitoring (29 CFR 1926.60(f)),” once a year, employers conduct initial monitoring at each of the 33 establishments and provide 33 workers with periodic and additional monitoring; therefore, these monitoring requirements result in a total of 66 records. The estimated total annual burden hours and cost associated with this recordkeeping requirement are:

Burden hours: 66 records × 5/60 hour = 6 hours
Cost: 6 hours × \$27.44 = \$165

Medical surveillance (§ 1926.60(o)(5))

The determinations made under “Information provided to the examining physician” above show that employers provide 342 medical examinations/reviews per year, requiring a written record. The agency assumes that a secretary spends five minutes (5/60 hour) per year establishing, maintaining, and updating each of these records, resulting in the following total annual burden hour and cost estimates:

Burden hours: 342 records × 5/60 hour = 29 hours
Cost: 29 hours × \$27.44 = \$796

Training records (§ 1926.60(o)(6))

OSHA estimates that a secretary requires five minutes (5/60 hour) to establish, maintain, and update each of the 171 training records determined above under “Information and training (29 CFR 1926.60(l)(3))” (i.e., 33 records for annual training + 138 records for initial training). Accordingly, the total annual burden hours and cost estimated for this provision are:

Burden hours: 171 records × 5/60 hour = 15 hours
Cost: 15 hours × \$27.44 = \$412

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Availability (§ 1926.60(o)(7))

The agency assumes that 10% (34) (200 existing workers + 138 (resulting from turnover) x 10% = 34 workers) or their designated representatives request access to medical records, exposure-monitoring records, written compliance plans, training records, and training materials (workers only) each year. OSHA estimates that a secretary takes five minutes (5/60 hours) to make the requested record available to each worker. Therefore, the total yearly burden hours and cost associated with making the required records available to workers is:

Burden hours: 34 worker-related requests × 5/60 hour) = 3 hours
Cost: 3 hours × \$27.44 = \$82

Table 2. Estimated Annualized Respondent Hour and Cost Burden Table

Collection of Information	Type of Respondent *	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Average Burden per Response (In Hrs.)	Total Burden Hours	Avg. Hourly Wage Rate	Total Burden Costs
A. Communication among employers (§ 1926.60(d))								
Communication among employers	Manager	330	1	330	15/60	83	\$49.56	\$4,113
B. Emergency situations (§ 1926.60(e))								
<i>Plan</i>	Manager	330	0.1	33	1	33	\$49.56	\$1,635
<i>Maintain Plan</i>	Secretary	330	0.1	33	30/60	17	\$27.44	\$466
C. Exposure monitoring (§ 1926.60(f))								
<i>Initial Monitoring</i>	S&H Specialist	330	0.1	33	2	66	\$53.04	\$3,501
<i>Periodic Monitoring</i>	S&H Specialist	330	0.1	33	2	66	\$53.03	\$3,501
<i>Employee Notification of Monitoring Results</i>	Secretary	330	0.2	66	6	6	\$27.44	\$165
<i>Visual Monitoring</i>	S&H Specialist	330	0.1	33	30/60	17	\$53.04	\$902

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Collection of Information	Type of Respondent *	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Average Burden per Response (In Hrs.)	Total Burden Hours	Avg. Hourly Wage Rate	Total Burden Costs
D. Methods of compliance (§ 1926.60(h))								
<i>Compliance Program</i>	S&H Specialist	330	0.1	33	90/60	50	\$53.04	\$2,652
H. Medical surveillance (§ 1926.60(n)(1-5))								
<i>Initial Exams</i>	Workers	330	0.4	138	90/60	207	\$31.54	\$6,529
<i>Periodic Exams</i>	Workers	330	0.606	200	90/60	300	\$31.54	\$9,462
<i>Emergency Exams</i>	Workers	330	0.006	2	90/60	3	\$31.54	\$95
<i>Multiple Physician Review mechanism</i>	Workers	330	0.006	2	90/60	3	\$31.54	\$95
<i>Information Provided to Examining Physician</i>	Secretary	330	1.04	342	5/60	29	\$27.44	\$796
<i>Physician Written Opinion</i>	Secretary	330	1.04	342	5/60	29	\$27.44	\$796
I. Recordkeeping (§ 1926.60(o))								
Objective data for exempted operations, and historical monitoring data	Supervisor	330	0.9	297	10/60	50	\$49.56	\$2,478
<i>Exposure Measurements</i>	Secretary	330	.2	66	5/60	6	\$27.44\$	\$165
<i>Medical Surveillance</i>	Secretary	330	1.04	342	5/60	29	\$27.44	\$796
<i>Training Records</i>	Secretary	330	.52	171	5/60	15	\$27.44	\$412
<i>Availability</i>	Secretary	330	.52	34	5/60	3	\$27.44	\$82
Grand Total				2,530		1,012		\$38,641

13. Provide an estimate for the total annual cost burden to respondents or recordkeepers resulting from information collection. (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.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondent (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

Capital Cost Determinations

From these determinations (described below), the agency estimates that **the total capital cost of these requirements each year is \$152,658**. This total consists of \$5,940.00 for analyzing exposure-monitoring samples and \$146,718.00 to administer medical examinations.

(A) Exposure monitoring (§ 1926.60(f))

Based on information obtained from the agency's Salt Lake City Technical Center, the average cost for an OSHA-accredited laboratory to analyze a sample of airborne MDA is about \$90.⁶ The annual fee to explore the 66 monitoring samples collected by the 33 establishments covered by the Standard (see the determinations made in Item 12 above under "Exposure monitoring" (29 CFR 1926.60(f)) is:

Cost: 66 samples x \$90 = \$5,940.00

⁶Galson Laboratories, 2021.

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

Consistent with recent ICRs and regulatory analyses, the agency estimates that each medical examination costs \$429.⁷ As noted above under “Information provided to the examining physician (§ 1926.60(n)(7))” in Item 12 above, the 33 establishments covered by the Standard administer a total of 342 medical examinations each year, resulting in the following annual cost:

Cost: 342 examinations x \$429 = \$146,718.00

Table 3 – Total Annualized Capital Cost Determinations

Capital Cost	Items	Cost
Exposure monitoring	66 Samples	\$5,940
Medical surveillance	342 Examinations	\$146,718
Total		\$152,658

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

There is no cost to the Federal Government.

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

The agency is requesting an adjustment increase in burden from 986 hours to 1,012 hours, a difference of 26 hours. There are two main reasons for the adjusted figure. First, the agency has updated the data sources used to estimate the number of respondents, burden, and cost (such as the loaded hourly wage rates, turnover rate, and unit cost for laboratory analysis and medical exams). Second, this ICR renewal switches from using rounded decimal estimates of unit burden to unrounded fractions (for instance, from 0.08 to 5/60 for an item with five minutes of burden).

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

No collection of information will be published.

⁷ This figure includes both a \$180 physician’s fee and \$249 hospital fee quoted for an out-of-network/uninsured patient in St. Louis, MO 63112. (Source: “Total Cost Related to New Patient Outpatient Visit, Total Time 15-29 Minutes, CPT Code 99202,” FAIRHealth Consumer, <https://www.fairhealthconsumer.org/medical/results>, (accessed July 28, 2021)).

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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 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 such an exception.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS.

There are no collections of information employing statistical methods.