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## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

**[Docket No. OSHA-2011-0029]**

### **Underground Construction Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning its proposal to extend OMB's approval of the information collection requirements specified in its Standard on Underground Construction (29 CFR 1926.800).

**DATES:** Comments must be submitted (postmarked, sent or received) by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

#### **ADDRESSES:**

Electronically: You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2011-0029, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA-2011-0029) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled "SUPPLEMENTARY INFORMATION."

Docket: To read or download comments or other materials in the docket, go to <http://regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket (including this Federal Register notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publically available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:** Todd Owen or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Seven paragraphs in the Underground Construction Standard (“the Standard”), 29 CFR 1926.800, require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert workers to the presence of hazards or potential hazards at the job site, thereby preventing worker exposure to hazards or potential hazards associated with underground construction that could cause death or serious harm.

Paragraph (t)(3)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter; they must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other workers who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an

employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Paragraph (j)(3) of the Standard mandates that employers develop records for air quality tests performed under paragraph (j), including air quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air quality records include specified information, and that employers maintain the records until the underground construction project is complete; they must also make the records available to OSHA compliance officers on request.

Maintaining records of air quality tests allows employers to document atmospheric hazards, and to ascertain the effectiveness of controls (especially ventilation) and implement additional controls if necessary. Accordingly, these requirements prevent serious injury and death to workers who work on underground construction projects. In addition, these records provide an efficient means for workers to evaluate the accuracy and effectiveness of an employer's exposure reduction program, and for OSHA compliance officers to determine that employers performed the required tests and implemented appropriate controls.

## **II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

## **III. Proposed Actions**

OSHA is requesting an adjustment increase of 8,982 burden hours (from 57,949 to 66,931 burden hours). The adjustment increase is a result of an increase in the number of construction projects from 323 to 361. In addition, there is an increase in the cost from \$117,000 to \$129,600 (an increase of \$12,600). This cost increase is the result of additional construction projects. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Underground Construction Standard (29 CFR 1926.800).

OMB Control Number: 1218-0067.

Affected Public: Business or other for-profits; not-for-profit institutions; Federal government; State, local or Tribal governments.

Number of Responses: 1,078,029.

Frequency of Responses: On occasion.

Average Time per Response: Varies from 30 seconds to read and record air quality test results to one hour to inspect, load test, and complete and maintain a certification record for a hoist.

Estimated Total Burden Hours: 66,931.

Estimated Cost (Operation and Maintenance): \$129,600.

**IV. Public Participation - Submission of Comments on this Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows: (1) electronically at <http://regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA-2011-0029). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you

must submit them to the OSHA Docket Office (see the section of this notice titled “ADDRESSES”). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350, (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publically available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site’s “User Tips” link. Contact the OSHA

Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

**V. Authority and Signature**

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1-2012 (77 FR 3912).

Signed at Washington, DC, on April 1, 2014.

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**David Michaels,**  
Assistant Secretary of Labor  
for Occupational Safety and Health.

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