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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[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 the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Underground Construction Standard.

**DATES:** Comments must be submitted (postmarked, sent, or received) by [INSERT DATE 60 DAYS AFTER DATE OF 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.

Docket: To read or download comments or other material in the docket, go to <https://www.regulations.gov>. Documents in the docket are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the websites. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA- 2011-0029) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the “Public Participation” heading in the section of this notice titled “**SUPPLEMENTARY INFORMATION.**”

**FOR FURTHER INFORMATION CONTACT:** Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor, as part of the 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 accordance with the Paperwork Reduction Act of 1995 (PRA) (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, the collection instruments are clearly understood, and OSHA’s estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (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 effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it.

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 the 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, 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 those 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 the proper performance of the agency's functions to protect workers, 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, and transmission techniques.

### **III. Proposed Actions**

OSHA is requesting that OMB extend the approval of the information collection requirements contained in Underground Construction Standard. The agency is requesting an adjustment increase in burden hours from 77,616 hours to 77,618 hours, a difference of 2 hours. This slight increase is due the result of a rounding inconsistency.

OSHA 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.

*OMB Control Number:* 1218-0067.

*Affected Public:* Business or other for-profits.

*Number of Respondents:* 461.

*Number of Responses:* 1,172,939.

*Frequency of Responses:* On occasion.

*Average Time per Response:* Varies.

*Estimated Total Burden Hours:* 77,618.

*Estimated Cost (Operation and Maintenance):* \$165,600.

### **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 <https://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA-2011-0029). You may supplement electronic submission by uploading document files electronically.

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 dates of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submission, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office at (202) 693-2350, (TTY (877) 889-5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

#### **V. Authority and Signature**

James S. Frederick, Deputy 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. 8-2020 (85 FR 58393).

Signed at Washington, DC, on May 2, 2024.

**James S. Frederick,**  
*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

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