

**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION REQUIREMENT
OF VERTICAL TANDEM LIFTS (VTLs) FOR
MARINE TERMINALS (29 CFR PART 1917)¹
OFFICE OF MANAGEMENT AND BUDGET (OMB)
CONTROL NO. 1218-0260 (May 2018)**

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 main purpose of the Occupational Safety and Health Act (“OSH Act”) is to “assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources” (29 U.S.C. 651). To achieve this objective, the OSH Act specifically authorizes “the development and promulgation of occupational safety and health standards” (29 U.S.C 651).

Under the authority granted by the OSH Act, the Occupational Safety and Health Administration (“OSHA” or “the Agency”) published a final rule on Vertical Tandem Lifts (VTLs) in Marine Terminals. A VTL means the lifting of two intermodal containers that are coupled together vertically (one on top of the other). The Standard permits VTLs of two empty containers. The information collection requirements in the standard require employers to develop and implement a terminal plan for transporting VTLs inside the terminal.

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

The collection of information required by the Standard is used by employers to ensure that employees are informed properly about the safety hazards associated with VTL operations, and the proper use of twistlocks when performing a VTL. The collection of information is necessary

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

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to prevent employee injuries and fatalities associated with lifting cargo.

§§1917.71(j)(2) and (k)(2) Written Plan for Transporting VTLs and Establishing a Safe Work Zone for Employees

(j)(2) The employer shall develop, implement, and maintain a written plan for transporting vertically connected containers. The written plan shall establish procedures to ensure safe operating and turning speeds and shall address all conditions in the terminal that could affect the safety of VTL-related operations, including communication and coordination among all employees involved in these operations.

(k)(2) The written transport plan required by paragraph (j)(2) of this section shall include the safe work zone and procedures to ensure that employees are not in this zone when a VTL is in motion.

Purpose: The written plan for transporting vertically connected containers is necessary for the safe transport of VTLs in the marine terminal where the mentioned factors affect the stability of a VTL which has a higher center of gravity than a single container. Without a VTL terminal plan, containers handled as a VTL could overturn. The safe work zone and procedures ensure employees are not in this zone when a VTL is in motion.

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 burden.

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 these standards 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 use for the purposes described in Item A.2 above.

The requirement to collect and maintain information are specific to each employer involved, and no other source or agency duplicates the requirement or can make the required information available to OSHA (i.e., the required information is available only from employers).

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

The VTL information collection requirements in the Standard do not have a significant impact on a substantial number of small entities.

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

The Agency believes that the information collection frequency required by the Standard is the minimum frequency necessary to prevent employee injuries and fatalities associated with lifting cargo. The Agency believes that failure of the employer to collect and distribute the information required by the information collection requirement in the regulation will affect significantly the cooperative effort between OSHA and the employer to ensure employee safety through controlling or reducing injuries and fatalities in marine terminal operations and longshoring. Any Federal program or policy activities or decisions that would reduce or eliminate the collections of information required in these standards would also affect OSHA's efforts to ensure employee safety and health in the workplace.

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

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

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- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No special circumstances exist that require employers to collect information in the manner or using the procedures specified by this item. The information collection requirement is consistent with the guidelines provided in 5 CFR 1320.5.

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

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

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

As required by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), OSHA published a notice in the Federal Register on January 22, 2018 (FR 83 3031) soliciting comments on its proposal to extend the Office of Management and Budget's approval of the information collection requirements specified by the Standard on Vertical Tandem Lifts for Marine Terminals (29 CFR Part 1917) under the docket number OSHA-2011-0066. This notice was part of a

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preclearance consultation program that provides the general public and government agencies with an opportunity to comment. The Agency received no comments in response to this notice.

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

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

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

None of the information collection requirements in the standards require the collection of confidential information.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the Agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

None of the provisions in the regulations require sensitive information.

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

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

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The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Respondent Burden Hour and Cost Burden Determinations:

Estimated Wage Rates

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 Statistics (OES), May 2016 [date accessed: September 5, 2017]. (OES 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 Statistics (OES) (2017)*. Fringe markup is from the following BLS release: *Employer Costs for Employee Compensation* news release text; For release 10:00 AM (EDT), June 9, 2017 (<https://www.bls.gov/news.release/pdf/ecec.pdf>). BLS reported that for civilian workers, fringe benefits accounted for 31.7 percent of total compensation and wages accounted for the remaining 68.3 percent. To calculate the loaded hourly wage for each occupation, the Agency divided the mean hourly wage by 68.3 percent.

Table 1 – Estimated Wage Rate

WAGE HOUR ESTIMATES²				
Occupational Title	Standard Occupation Code	Mean Hour Wage Rate	Fringe Benefits Multiplier	Loaded hourly Wage Rate
General Manager	11-1021	\$58.70	0.683	\$85.94

The estimated burden hour and cost determinations are based on the industrial profile of the VTLs’ Final Rule (73 FR 75245). The industrial profile identifies 1,280 establishments affected by the VTL Standard. This includes port and harbor operations (NAICS 488310)(337 establishments), deep sea freight transportation (NAICS 483111) (350 establishments), and coastal and great lakes freight transportation (NAICS 483113) (593 establishments). However, West coast marine terminals are covered under International Longshore and Warehouse Union contracts, which discourage these employers from using VTLs. Further, Agency discussions

² Source: *Employer Costs for Employee Compensation, Supplementary Table 2*. U.S. Department of Labor, Bureau of Labor Statistics, May 2016

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with employers indicate that East and gulf coast employers rarely use VTLs in their shore based operations. For these reasons, the Agency estimates that no more than 10 percent of marine terminals are currently using VTLs; the Agency will conservatively assume 10 percent are for the purposes for calculating this ICR. The Agency will retain the same percentage as the last ICR update.

§§1917.71(j)(2) and (k)(2) Written Plan for Transporting VTLs and Establishing a Safe Work Zone for Employees

Employers are to develop and implement a written plan for transporting vertically coupled containers in a terminal. OSHA estimates that 10% (128) of the 1,280 employers are generating, developing, and maintaining these written plans. OSHA assumes that a manager, earning \$85.94 an hour, will take four hours to develop and implement the written plan including identification of safe work zones and procedures.

Burden hours: 128 establishments x 4 hours = 512 hours
Cost: 512 hours x \$85.94 = \$44,001

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

Item 12 above provides the total cost of the information collection requirements specified by the Standard.

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.

Usually, OSHA requests access to records during an inspection. Information collected by the Agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). Therefore, OSHA takes no burden or cost in Items 12 and 14 of this Supporting Statement.

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

OSHA is requesting an adjustment decrease in the existing burden hour estimate for the information collection requirements specified by the Standard from 560 hours to 512 hours,

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a total decrease of 48 hours. Based on staff expertise with marine terminals, the Agency reduced the estimated number of marine terminals that use VTLs with updated establishment data from the North American Classification Information System retrieved from the 2015 County Business Patterns.

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.

OSHA will not publish the information collected under these standards.

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 that this is the most appropriate and accurate mechanism to inform interested parties of these expiration dates.

18. Explain each exception to the certification statement.

OSHA is not seeking an exception to the certification statement.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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