



# *Comments to DOL*

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**Comments of the  
National Institute for Occupational Safety and Health  
on the  
Department of Labor  
Submission for OMB Review;  
Comment Request**

**OMB Number 1218-0085**

**U.S. Department of Health and Human Services  
Public Health Service  
Centers for Disease Control and Prevention  
National Institute for Occupational Safety and Health**

**January 27, 2006**

The National Institute for Occupational Safety and Health (NIOSH) has the following comments in response to the Department of Labor (DOL) Comment Request published in the *Federal Register* on December 30, 2005 [70 FR 77427] regarding extension of information collection for the 13 Carcinogens Standard. These comments specifically address the Records Access and Transfer requirements of the 13 Carcinogens Standard [29 CFR 1910.1003(g)(2)].

- ***Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.***

According to the Supporting Statement for the Information-Collection Requirements, employers must transfer each employee's medical records, or notarized true copies of the records, to NIOSH upon the employee's termination of employment, retirement or death. Also, medical records must be transferred to NIOSH in the event the employer ceases business without a successor, or if NIOSH requests the records. These records may be used by NIOSH for research purposes, and by employees for health assessments and other reasons.

Since the 13 Carcinogens Standard was promulgated in 1974, NIOSH has received approximately 2900 records transferred in accordance with the standard's requirements listed above. None of these records have been used by NIOSH in the conduct of its research because the records are not systematically collected and generally do not include information that is critical for analysis (e.g., work history and exposure measurements). In addition, NIOSH has received very few requests from employees for their records. Based on this historical record, NIOSH believes that employee medical records will have no practical utility in the future.

- ***Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.***

NIOSH believes that the cost estimate provided in Section 14 of the Supporting Statement understates the actual cost to NIOSH of processing and storing the records. The Supporting Statement bases its estimate on 29 records per year. (As indicated above, NIOSH has received 2900 records during the 31 years the standard has existed, which is an average of approximately 93 records per year, more than three times the DOL estimate.)

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In addition, the estimate does not include certain record processing and storage costs incurred by NIOSH. Once NIOSH receives and processes the records internally, additional processing is necessary to transfer these records to the Federal Records Center (FRC) where they remain stored for a 40-year retention period as specified in the Centers for Disease Control and Prevention (CDC) Records Schedule<sup>1</sup>.

<sup>1</sup> The retention period for employee records received prior to 2006 is 40 years, so that all records currently at the FRC will incur storage costs for that period. Beginning in 2006, the CDC Records Schedule was changed to reduce the retention period to 30 years.

The additional costs incurred for processing a larger number of records, as well as for transferring and storing the records at the FRC, are outlined below:

- (a) Processing additional records:  $(93 - 29) \times 0.07 \text{ hour} \times \$19.26$
- (b) Preparing records inventory and completing required CDC and FRC paperwork:  
8 hours/year (GS-9-5 technical information specialist)
- (c) Physically transporting and delivering the records to the Dayton FRC:  
4 hours/year (WG-6-4) plus 120 miles R/T
- (d) FRC storage costs billed to NIOSH:  $93 \text{ records/year} \times \$0.30/\text{record/year} \times 40 \text{ years}$

 Given that these records have proven to have no research utility, the costs associated with processing and maintaining these records are not justified. In addition, the Standard will impose additional resource burdens on NIOSH as more employees age and their medical records are transferred to NIOSH. ''

Based on the historical record discussed above, the lack of practical utility, and the costs associated with processing and maintaining these records, NIOSH suggests that DOL may wish to consider not requiring the transfer of these records and other employee records to NIOSH.

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