



National Grain and Feed Association

www.ngfa.org | ngfa@ngfa.org

April 8, 2014

OSHA Docket Office
Docket No. OSHA 2011-0028
U.S. Department of Labor
Occupational Safety and Health Administration
200 Constitution Ave., NW
Room N-2625
Washington, DC 20210

Re: Docket No. OSHA-2011-0028 - Information Collection Requirements (ICR) in the Grain Handling Facilities Standard (29 CFR 1910.272)

The National Grain and Feed Association (NGFA) is pleased to respond to the Occupational Safety and Health Administration's (OSHA) request in the February 7, 2014 *Federal Register* for comments on its planned submission to the Office of Management and Budget (OMB) for an extension of the ICR in the Grain Handling Facilities Standard (29 CFR 1910.272). As discussed more fully below, we question the accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements.

NGFA, established in 1896, consists of more than 1,050 grain, feed, processing, exporting and other grain-related companies that operate more than 7,000 facilities and handle more than 70 percent of all U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry.

The NGFA, as the principal representative of the grain handling, feed manufacturing and processing industry, has been in the forefront of research, education and training designed to enhance safety in the grain handling, processing and feed sectors.

The industry is dedicated to pursuing and promoting technological innovations, new practices and safety training and education programs that contribute to safe and efficient grain-handling operations. These programs are vital, first and foremost, to safeguard human lives. We have demonstrated a commitment to fostering safety, prior to and after the promulgation of the grain handling standard, 29 *CFR* 1910.272.

In the February 7, 2014 *Federal Register*, OSHA cites the following information-collection provisions of the Grain Handling Facilities Standard:

- Paragraph (d) – Develop and implement an Emergency Action Plan
- Paragraph (e)(1) – Perform employee training
- Paragraph (f)(1) – Develop and issue hot work permits
- Paragraph (f)(2) – Permit shall certify requirements have been met before hot work begins
- Paragraph (g)(1)(i) – Develop and issue bin entry permits
- Paragraph (g)(1)(ii) – Prevent operation of equipment that presents danger inside grain storage areas
- Paragraph (i)(1) and (i) (2) – Inform contractors of fire and explosion hazards and emergency action plan
- Paragraph (j)(1) – Develop and implement a written housekeeping plan
- Paragraph (m)(1) – Implement a prevention maintenance program consisting of regularly scheduled inspections of specific equipment
- Paragraph (m)(3) – Maintain certification of each inspection
- Paragraph (m)(4) – Implement procedures for the use of locks and tags

OSHA says that 18,804 facilities are affected by the above information-collection requirements in the Grain Handling Facilities Standard. The Agency is further requesting to maintain its current burden hour estimate associated with the standard at 68,762 or an average of 3.2 hours per respondent. In addition, the Agency estimates the total compliance cost at \$0.

The Grain Handling Facilities Standard is applicable to grain elevators, feed mills, flour mills, rice mills, dust palletizing plants, dry corn mills, soybean flaking operations and the dry grinding operations of soycake. When OSHA published the Grain Handling Facilities Standard on December 31, 1987, the Agency estimated that 23,508 facilities would be covered by the rule. Since then, industry consolidation has likely shrunk that number somewhat. Thus, OSHA's estimate that 18,804 facilities are impacted by the information-collection requirements in the standard does not appear unreasonable.

On its face, OSHA's assumption that affected grain handling facilities can devote an aggregate of 68,762 hours to complying with the information-collection requirements of the Grain Handling Facilities Standard at no cost defies logic. Clearly, affected facilities would incur administrative costs associated with management and employee time.

Furthermore, OSHA's assumption that the affected industry devotes a total of only 68,762 hours at no cost to complying with the information-collection requirements of the Grain Handling Facilities Standard is at odds with industry experience and the Agency's own analysis of the potential economic impact of the standard. Regarding the latter point, two analyses were performed by consultants hired by OSHA that estimated the potential time and cost of complying with each provision of the standard, including the information-collection provisions cited above. Those studies were done by OSHA

consultants Arthur D. Little (1983) and Booz, Allen & Hamilton, Inc. (1984). The Booz Allen study analyzed and updated the A.D. Little study to reflect changes in the proposed Grain Handling Facilities standard made subsequent to completion of the A.D. Little analysis as well as additional information on industry practices. For these reasons, we will focus our comments on the Booz Allen study.

In **Section II, Background** of the February 7, 2014 ICR, OSHA describes the information-collection requirements in eight specific paragraphs in the Grain Handling Facilities Standard (see above). We interpret the ICR to include the activities noted in each paragraph cited. For example, the Booz Allen study was consulted for an estimate on the time and cost of employee training because paragraph (e)(1) – which mandates such training – is one of the paragraphs cited in the ICR.

Booz Allen looked at each provision of the proposed standard and estimated initial and recurring costs of compliance. For purposes of these comments, only recurring costs will be cited as such on-going costs are most relevant to the subject of the February 7, 2014 ICR. Importantly, Booz Allen found that most of the information-collection provisions noted above would involve an on-going commitment in employee time (supervisory and employee) as well as expense. For example, Booz Allen estimated that affected facilities would devote 14 to up to 280 hours per year for employee training (paragraph (e)(1)) depending on the size of the elevator or mill. To conduct such training, Booz Allen estimated that -- in 1984 dollars -- the affected industry would incur about \$1.8 million in recurring costs. For bin entry permits (paragraph (g)(1)), Booz Allen projected that facilities would devote 1 to 2 hours per year and incur annual expenses of \$113,526 issuing permits, again in 1984 dollars. For the outside contractor provision (paragraph (i)(1) and (i) (2)), Booz Allen estimated that contractor briefings would annually cost the affected industries \$206,711 in 1984 dollars. There are similar analyses for the remaining provisions of the standard.

In conclusion, there are strong reasons to question the accuracy of OSHA's estimated burden time and cost incurred by affected facilities in complying with the information-collection requirements of the standard. Thus, we recommend that OSHA reevaluate and recalculate its estimated burden times and costs to ensure that they accurately reflect the impact of affected industries, taking into consideration the above comments.

Thank you for allowing us the opportunity to comment on OSHA's proposed ICR for the Grain Handling Facilities Standard. We hope you find this input helpful in complying with the provisions of the Paperwork Reduction Act of 1990.

NGFA appreciates OSHA's consideration of the comments contained herein, and would be pleased to respond to any questions the agency may have on this important matter.

Respectfully submitted,

A handwritten signature in black ink that reads "Jess McCluer". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Jess McCluer
Director, Safety and Regulatory Affairs