

Note to Reviewer

In 2001 OSHA published a final rule revising its regulation on recording and reporting occupational injuries and illnesses (66 FR 5916-6135). This revision included a requirement that employers check the MSD column on the OSHA 300 Log if an employee experienced a work-related musculoskeletal disorder (MSD) meeting the general recording criteria in the Regulation. At that time, OSHA submitted a revised paperwork package to OMB to reflect all changes to the Recordkeeping regulations, including marking the MSD column on the OSHA 300 Log. However, the revised paperwork package did not contain separate estimates of the burden associated with marking certain types of injuries or illnesses in specific columns, such as respiratory diseases and MSDs.

In 2003, OSHA published a final rule deleting two requirements in the 2001 final, including marking the MSD column (68 FR 38601-38607). In that final rule, OSHA also stated that OSHA was not attempting to remove the burden hours and costs from the paperwork package, since the 2001 rule did not contain separate estimates of the burden associated with the MSD column.

OSHA is now proposing to revise its Occupational Injury and Illness Recording and Reporting (Recordkeeping) regulation to restore the column on the OSHA 300 Log for recording musculoskeletal disorders (MSDs). Since the 2001 package did not specify the burden hours and costs for marking the MSD column, OSHA is revising the existing Recordkeeping and Reporting Occupational Injuries and Illnesses paperwork package to calculate burden hours and cost calculations associated with learning about the MSD requirement and marking the MSD column. OSHA will add these burden hours and costs to the existing paperwork package. OSHA notes that these additions may result in double counting the paperwork hours and costs for the Recordkeeping regulation.

OSHA estimates that this change to the recordkeeping regulation will result in 153,563 burden hours in the initial year of implementation and an additional 25,585 burden hours in subsequent years. The initial year will entail 5 minutes per establishment to learn the procedures for recording MSDs and 1 additional minute per MSD case recorded. The subsequent years will only entail one per MSD case recorded. These proposed changes to the Recordkeeping rule and paperwork burden are reflected in bold italics in this Supporting Statement.

The deadline for public comment on the NPRM is March 15, 2010. OSHA will comply with the PRA regarding public and OMB comment on proposed collection of information contained in proposed rules.

Supporting Statement
29 CFR 1904 Recordkeeping and Reporting Occupational Injuries and Illnesses
(Revised – Restoring of the Musculoskeletal Disorder (MSD) Column)

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.

Public Law 91-596, the Occupational Safety and Health Act of 1970, section 24(a) states that:

The Secretary. . . shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics.

Further:

. . .the Secretary may promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.

Section 8(c)(2) of the OSH Act also prescribes that:

The Secretary shall prescribe regulations requiring employers to maintain accurate records of and to make periodic reports on, work-related deaths, injuries and illnesses. . .

Recordkeeping regulations are contained in Title 29 of the Code of Federal Regulations (CFR) Part 1904. Copies of the appropriate sections of the OSH Act and 29 CFR Part 1904 are included in Attachments 1 and 2.

Recordkeeping forms are promulgated under 29 CFR Part 1904, and consist of the OSHA Form 300, the Log of Work-Related Injuries and Illnesses; the OSHA Form 300A, Summary of Work-Related Injuries and Illnesses; and the OSHA Form 301, the Injury and Illness Incident Report (Attachment 3). The use of the recordkeeping forms by employers helps to ensure the uniformity of the safety and health data utilized by OSHA and the Bureau of Labor Statistics (BLS).

OSHA is proposing to revise its Occupational Injury and Illness Recording and Reporting (Recordkeeping) regulation to put back the musculoskeletal disorder (MSD) column on the OSHA 300 Log that employers use to record work-related injuries and illnesses. The proposed rule would require employers to check the MSD column, instead of the column they currently mark, if a case is an MSD that meets the Recordkeeping regulation's existing general recording requirements.

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 OSHA Forms package and 29 CFR Part 1904 provide employers with the means and specific instructions needed to maintain records of work-related injuries and illnesses. Response to this collection of information is mandatory for employers covered by the regulations, as specified in 29 CFR Part 1904, Subpart B. Approximately 763,700 employers with 1,541,900 establishments are regularly required to maintain the forms.

Employers required to keep the occupational injury and illness records pursuant to 29 CFR Part 1904 must maintain the required records at each establishment, and comply with the annual certification and posting requirements of 29 CFR 1904.32. These employers are required to comply with the requirements of 29 CFR 1904.35, which provide access to records for employees, former employees and their representatives. These employers are also required to comply with the reporting requirements of 29 CFR 1904 Subpart E, which provides for reporting fatality, injury and illness information to the government. (Note: The burden associated with the requirements of §§1904.41 and 1904.42 are covered under OMB control numbers 1218-0209 and 1220-0045.)

The records kept pursuant to Part 1904 are used for many purposes. Generally, hard data are necessary to define the nature and extent of existing occupational health and safety problems, or lack thereof. Hard data on occupational injuries and illnesses provide a baseline for use in evaluating efforts to solve existing health and safety problems. Accurate worksite data are indispensable for use in outcome-oriented efforts to improve the safety and health of America's workers.

Specifically, the records kept pursuant to Part 1904 are used primarily by government, employers, employees, and labor organizations. The records required under this information collection request (OSHA Form 300, OSHA Form 300A and OSHA Form 301) provide the baseline data for employer response to the OSHA Data Initiative which is covered under OMB control number 1218-0209. OSHA uses the information gathered from Part 1904 records during its annual data collection initiative to target its programmed inspections and outreach efforts and to comply with the Government Performance and Results Act (GPRA). OSHA also uses information provided in individual employer's Part 1904 records when its compliance officers review them as a part of an on-site OSHA inspection. The information in the records can provide a roadmap for the compliance officer to focus the inspection on the most hazardous aspects of the operation. In short, accurate records are necessary for the optimal prioritization of the use of OSHA's scarce resources.

In addition to OSHA, others use information generated by the Part 1904 records. The Bureau of Labor Statistics (BLS) uses the information collected from the Part 1904 records of participants in its annual statistical survey (which is covered under a separate PRA approval) to produce national statistics on occupational injuries and illnesses. Employers and employees use the records to see -- in a snapshot -- the health and safety record for the establishment. The records provide accurate injury and illness information for each worksite; information which is indispensable for use by the employer as well as employees in accomplishing data-based problem solving and hazard identification to improve the health and safety conditions of the worksite.

OSHA is proposing to revise its Recordkeeping regulation (29 CFR Part 1904) to put

back the column for MSDs on the OSHA 300 Log that employers use to record workplace injuries and illnesses. The 2001 Recordkeeping final regulation included an MSD column (66 FR 5916, 6129 (1/19/2001)), but the requirement was deleted before it became effective (68 FR 38601, 38605 (6/20/2003)). The proposed rule would require employers to check the MSD column, instead of the column they mark now, if the case is an MSD and meets the existing general recording requirements of the Recordkeeping rule. The rule also proposes, for recordkeeping purposes only, a definition of MSD that is identical to the one in the 2001 final Recordkeeping rule. In addition, OSHA proposes an entry for the total number of MSDs on the OSHA 300A form, the form that employers use to annually summarize their work-related injuries and illnesses (see 29 CFR 1904.32).

Although OSHA in 2003 deleted the MSD provisions (column and definition) from the 2001 Recordkeeping rule, after further consideration and analysis, the Agency believes that information generated from the MSD column will improve the accuracy and completeness of national occupational injury and illness statistics; will provide valuable and industry specific information to assist OSHA in effectively targeting its inspection, outreach, guidance and enforcement efforts to address workplace MSDs; and will provide establishment level information that will be useful and easily identifiable for both employers and employees.

OSHA stresses that the purpose of this rulemaking is solely to improve data gathering regarding work-related MSDs. The proposed rule does not require employers to take any action other than to check the MSD column on the OSHA 300 log if a work-related MSD case occurs that meets the existing general recording requirements of the Recordkeeping regulation. Unlike OSHA standards, the proposed rule does not require employers to implement controls to prevent and control employee exposure to an identified occupational hazard.

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.

29 CFR 1904.39(a) requires the employer of any employees so affected to orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U. S. Department of Labor, that is nearest to the site of the incident, or by using the OSHA toll-free central telephone number. OSHA does not believe that reporting by voice-mail, facsimile or e-mail would meet the objectives of this data collection. For example, if an incident occurred late on a Friday evening, and the employer used the facsimile machine to meet the reporting requirements, OSHA would most likely not learn of the incident until the following Monday morning. Telephone answering machines and e-mail would be similarly deficient. For this reason, OSHA requires that these reporting obligations be met through direct verbal contact with the Area Office or by utilization of the OSHA toll-free number. In this manner a timely decision can be made regarding investigation of the scene.

The remainder of this information collection request does not require respondents to submit the recorded information to the Agency; it only requires that employers maintain, in their establishments, the required records. Section 1904.41 of Part 29 of the CFR, Annual OSHA Injury and Illness Survey of Ten or More Employers, requires selected employers to participate

in OSHA's annual survey and is covered by a separate information collection request under OMB Control Number 1218-0209.

Employers may maintain the required Part 1904 records using computers, if the computerized forms contain the same detail and are as readable and comprehensible to the average person as are the Part 1904 forms. On its website (www.osha.gov), OSHA has made available to the public the OSHA Forms 300, 300A and 301 as a Microsoft Excel spreadsheet and in a printable PDF format. The use of such technology, including the advantages of centralization, reduces employer burden.

Employers are not required to submit the OSHA 300 forms directly to OSHA. Part 1904.40 of the OSHA Injury and Illness Recording and Reporting Requirements gives instruction as to when OSHA records are required to be provided to a government representative. The OSHA forms are to be retained and updated by the employer according to Part 1904.33 of the Recordkeeping Requirements.

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 2 above.

OSHA knows of no similar data that are comparable to the data recorded on the OSHA Form 300. Workers' compensation data are not a viable substitute for the data required by Part 1904 because State workers' compensation regulations that define which injuries and illnesses are compensable vary. Furthermore, workers' compensation data are not made available to OSHA by every State.

The OSHA Form 300 and the OSHA Form 301 do not duplicate any existing federal documents. For each recordable occupational injury or illness, as defined by 29 CFR Part 1904, Subpart C, an employer must complete a line item on OSHA Form 300 and also complete the OSHA Form 301. Employers may use other forms, such as insurance forms or State workers' compensation forms, in lieu of the OSHA Form 301 if the substitute forms contain all the information required by the OSHA Form 301 or are supplemented to do so. ***Of course, employers must complete a form for each occupational injury or illness that meets the OSHA general recording criteria regardless of whether the injury or illness meets State workers' compensation eligibility.*** OSHA estimates that 60 percent of employers will use substitute forms in lieu of the OSHA Form 301.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information collection does not impose a significant economic impact on a substantial number of small entities. Small employers with fewer than 11 employees in all sectors of the economy and all employers in certain Standard Industrial Classifications are exempt from OSHA recordkeeping, unless pre-notified in writing that they must participate in the BLS Annual Survey of Occupational Injuries and Illnesses, OMB No. 1220-0045 or the OSHA Occupational Injury and Illness Data Collection, OMB No. 1218-0209. See 29 CFR 1904.41 and 42. Of the 7.5 million establishments covered by OSHA and the State Plans, approximately 6.0 million fall under these exemptions. These exemptions do not apply to the reporting requirement that employers must orally report to OSHA a fatality or multiple hospitalizations as a result of a work-related incident. See 29 CFR 1904.39.

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.

Efforts to fulfill the Congressional mandate to assure “safe and healthful working conditions for working men and women . . .” would be severely hampered if OSHA did not require employers to maintain the records required by Part 1904, or if OSHA required that the records be kept on less than an annual basis. As explained more fully above in answer to question 2, the records kept pursuant to Part 1904 are used for many purposes. The absence of these records, or any change in the system which would result in less frequent generation of these records, would adversely impact many programs. The government and private sector’s ability to define -- using hard data -- the nature and extent of existing occupational safety and health problems, and to evaluate occupational safety and health programs, would be severely hampered. Specifically, OSHA and BLS would be unable to continue their respective annual collections of information generated from the Part 1904 records, and thus their respective programs that utilize those data -- such as OSHA’s programmed inspection program, compliance with GPRA, and BLS’s generation of national occupational injury and illness statistics -- would be irreparably harmed. OSHA compliance officers would not have the benefit of current Part 1904 records which help to focus their on-site inspections more effectively. In short, OSHA’s ability to optimize the use of its scarce resources would be crippled. Furthermore, employers and employees would also lose a valuable resource -- an up-to-date “snapshot” of the safety and health record for the establishment -- if the Part 1904 records ceased to exist, or were maintained on a less frequent basis.

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;
 - requiring the use of a 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 demonstrate that it has instituted procedures to protect the information’s confidentiality to the extent permitted by law.

In some circumstances the information recorded in compliance with Part 1904 may be

confidential in nature. OSHA considers such information to be potentially confidential, and, as appropriate, follows the procedures set forth in 29 CFR 70.26, which require OSHA to contact the employer which submitted the information prior to any potential release under the Freedom of Information Act, 5 U.S.C. § 552(b)(4). Additionally, Section 15 of the OSH Act protects the confidentiality of trade secrets. 29 U.S.C. § 664. See also 18 U.S.C. § 1905.

Furthermore, §§ 1904.29 (b)(6) through (b)(9) provide for the confidentiality of employees who experience 6 different types of injuries and illnesses, including any illness case in which an employee voluntarily requests that his or her name not be entered on the log. Employers are required to code these injury and illness cases and maintain a separate confidential list of employee names associated with the codes. Also, § 1904.29 (b)(10) requires that, if an employer voluntarily discloses the forms to persons other than those granted access under §§ 1904.35 and 1904.40, the employer must remove or hide the employees' names and other personally identifying information, except under the limited circumstances contained in §§ 1904.29(b)(10)(i) through (iii). This ensures the employee's privacy is protected.

Employers under 29 CFR Part 1904.29(b)(3) are required to enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred. Also, 1904.39(a) requires employers to orally report fatalities and multiple hospitalization incidents to OSHA within 8 hours of occurrence. OSHA's fatality/catastrophe investigations are most effective when accidents are reported immediately following their occurrence. Any delay in OSHA's receipt of these reports can seriously hinder the Agency's efforts to determine the cause of the accident, as the accident scene can change significantly in a short period of time.

This information collection is otherwise consistent with 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.

Comments pertaining to the revision of the recordkeeping requirements will be solicited through the rulemaking process in a Notice of Proposed Rulemaking. OSHA has submitted a revised Recordkeeping and Reporting Occupational Injuries and Illnesses Information Collection Request to the Office of Management and Budget

Members of the public who wish to comment on the paperwork requirements in this proposal may send their written comments to the Office of Information and Regulatory Affairs, Attn: OSHA Desk Officer (RIN 1218-AC45), Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. The Agency encourages commenters to also submit their comments on these paperwork requirements to the rulemaking docket (Docket Number OSHA-2009-0044), along with their comments on other parts of the proposed rule. Interested persons may submit comments on the proposed rule (1) electronically at

<http://www.regulations.gov>, the Federal eRulemaking Portal; (2) by FAX (202-693-1948) if the comments, including attachments, do not exceed 10 pages; or (3) by hard copy (i.e., mail, hand delivery, express mail, messenger, courier service) by submitting three copies to the OSHA Docket Office, Docket No. OSHA-2009-0044, Room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350.

OSHA will hold a public meeting on the proposed rule from 9 a.m to 5 p.m. on March 9, 2010. If necessary, OSHA will extend the meeting to subsequent days. If you would like to present at the public meeting or need special accommodations, please submit requests by February 16th 2010. Please submit requests to speak at the public meeting in the same manner as written comments in the above paragraph. Please submit requests for special accommodations to Veneta Chatmon, OSHA, Office of Communications, Room N-3647, U.S. Department of Labor, 200 Constitution Ave., NW. Washington DC 20210; telephone (202) 693-1999; email Chatmon.veneta@dol.gov.

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

Respondents will not receive any payments or gifts.

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

While there is no assurance of confidentiality provided to information recorded on these forms and documents, the 1904 regulations include several provisions to protect the privacy of injured or ill employees. In the vast majority of cases, the records are kept by the employer at the workplace and are never submitted to OSHA or other government representatives. While in the possession of the employer, the records are subject to the requirements for access outlined in 29 CFR Part 1904.35 and 1904.40 (See Attachment 2). Records obtained by OSHA or other Federal government representatives would be disclosed by the government only in accordance with the Freedom of Information Act (FOIA). Exemption 4 of FOIA protects “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” See 5 U.S.C. § 552(b)(4). Exemption 6 of FOIA enables an agency to exempt certain information from disclosure which would be “a clearly unwarranted invasion of personal privacy.” See 5 U.S.C. §552(b)(6).

As discussed in question 7 of this supporting statement, §§ 1904.29 (b)(6) through (b)(9) provide for the confidentiality of employees who experience 6 different types of injuries and illnesses, including any illness case which an employee voluntarily requests that his or her name not be entered on the log. Employers are required to code these injury and illness cases and maintain a separate confidential list of employee names associated with the codes. Also, § 1904.29 (b)(10) requires that, if an employer voluntarily discloses the forms to persons other than those granted access under §§ 1904.35 and 1904.40, the employer must remove or hide the employees’ names and other personally identifying information, except under the limited circumstances contained in §§ 1904.29(b)(10)(i) through (iii).

Furthermore, the OSHA 300 and 301 Forms contain the following statement: “This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.”

These provisions will help to ensure the employee’s privacy is protected.

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.

Column F of the OSHA Form 300 requires the employer to “Describe injury or illness, parts of body affected, and object/substance that directly injured or made person ill.” Asking this question is necessary for OSHA to comply with its statutory mandate. [The Occupational Safety and Health Act of 1970 requires the Secretary to “prescribe regulations requiring employers to maintain accurate records of and to make periodic reports on, work-related deaths, injuries, and illnesses . . .” 29 U.S.C. 657. The OSH Act further requires the Secretary to “develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics . . . The Secretary shall compile accurate statistics on work injuries and illnesses. . .” and the Secretary may “promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics.” 29 U.S.C. 673.] This is not a situation where the government is prying into the private behavior of individuals; the government is seeking information from employers about occupational injuries and illness, in order “to assure so far as possible every working man and woman in the Nation safe and healthful working conditions. . .”

Further, OSHA believes that the regulation does provide protection against “inappropriate” disclosure. The entire log is not disclosable to anybody who wants to see it. The regulation requires disclosure only to: (1) people who, by statute, have official government responsibilities related to occupational safety and health or (2) people who either work or have worked at the establishment, or (3) people who represent people who work or have worked at the establishment. As discussed above, §§ 1904.29 (b)(6) through (b)(9) provide for the confidentiality of employees who experience 6 different types of injuries and illnesses, including any illness case which an employee voluntarily requests that his or her name not be entered on the log. In addition, if the employer voluntarily discloses the log to persons other than those granted a right of access, the employer must remove or hide the employees’ names and other personally identifying information in most cases.

OSHA's historical practice of allowing employee access to all of the information on the log -- including the description of the injuries and illnesses -- permits employees and their designated representatives to be informed about the occupational injuries and illnesses recorded in the workplace as well as the employer's recordkeeping practices.

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

- Indicate 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 burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for 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 burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. 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.

The recordkeeping burden varies greatly from establishment-to-establishment, depending upon industry, size, expertise, the use of equivalent forms and computer resources. Another important factor to be considered is that an establishment in a high-risk industry such as meatpacking may have 200 recordable cases in one year requiring 200 line entries on the OSHA Form 300 log, while a telephone communications company establishment of the same size would average approximately 20 recordable cases.

Estimates of the total burden of injury and illness recordkeeping are dependent on the number of recordable cases and vary from year-to-year. The case data used to develop the burden estimates in the table which follows are based on injury and illness statistics from the 2005 BLS Annual Survey. The establishment data are based on an extrapolation of 2003 Small Business Administration enterprise data, the most recent year data is available using the Standard Industrial Classification (SIC) system. OSHA applied a growth factor of 3.9% to the SBA data. This growth rate was calculated using County Business Patterns 2002 - 2004 data.

The following assumptions are used to develop the burden estimates:

- A) Time required to complete an entry (other than a needlestick) on the OSHA Form 300 (including research in the regulation) ranges from 5 minutes to 30 minutes and averages 14 minutes;
- B) Time required to record a needlestick on the OSHA Form 300 averages 5 minutes;
- C) Time required completing an entry on the OSHA 301 (including research) averages 22 minutes;
- D) Based on information gathered from 800 recordkeeping audit inspections, OSHA estimates approximately 40 percent of the cases will be recorded on the OSHA Form 301. Many employers will use an equivalent form such as a State workers' compensation form, insurance form, etc.;
- E) A line entry for a "privacy concern case" as defined under §1904.29(b)(7) on a confidential list will average 3 minutes;
- F) Employers are required by 29 CFR 1904.32 to complete, certify and post a summary of occupational injuries and illnesses for each establishment. This applies to the 1,541,900 establishments covered by the regulation, regardless of whether the establishment experienced a recordable case or not. OSHA estimates this will require 58 minutes to complete: Complete OSHA Form 300A - 20 minutes; Company official certification - 30 minutes; Posting summary - 8 minutes;
- G) Employers are also required by 29 CFR 1904.35 to make records available to employees, former employees and employee representatives upon request. OSHA assumes that employers will require five minutes to pull the relevant form and make it available to the person requesting access. OSHA estimates there will be approximately 110,000 employee requests to access the OSHA Form 300. Again, this estimate is based on information obtained during approximately 800 recordkeeping audit inspections. OSHA estimates approximately 284,000 requests will be made for the OSHA Form 301;

H) Employers who wish to maintain records in a manner different than required by Part 1904, may submit petitions for recordkeeping exemptions containing specific information as outlined in §1904.38. In the 30 year history of this rule, OSHA has received one petition for a variance to the recordkeeping requirements. That petition was filed and granted in 1972. OSHA does not expect to receive any petition for variances under the time period of this ICR and therefore assigns 0 burden hours to these requirements;

I) Employers must report to OSHA if and when their employees experience an accident resulting in the death of the worker or in-patient hospitalization of three or more workers. Several state plan states have more stringent reporting requirements than federal OSHA. For example, California requires employers to report any “serious injury or illness, or death” to CalOSHA. In calculating its paperwork burden estimates, OSHA is only counting the number of reports that meet the federal reporting requirements. OSHA estimates that approximately 2,000 reportable accidents will occur each year. These accidents are reported from OSHA’s Integrated Management Information Systems (IMIS). OSHA estimates that each report will take about 15 minutes to complete based on the information required (each report required by this collection shall relate the following information: employee’s names, establishment name, location of incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident);

J) OSHA estimates the turnover of personnel is such that about 20 percent of recordkeeping personnel must learn the basics of the recordkeeping system every year (308,400 establishments) and will require a one hour orientation to learn the basics of the recordkeeping system.

K) The average establishment would require an extra 6 minutes (5 minutes to familiarize themselves with the MSD column and one extra minute to record each MSD case) in the initial year the MSD column is put back onto the OSHA 300 Form, for a total of 153,563 burden hours. In subsequent years establishments will only require one minute to record each MSD case for a total of 25,585 burden hours each year. The Agency expects the largest time required to comply with the proposed rule will be related to familiarization with the MSD column reporting procedure. OSHA preliminarily estimates that it would take affected employers five minutes to familiarize themselves with the proposed MSD reporting procedures, which would only be incurred during the initial year of implementation. The Agency also believes that there will be some small time required above what firms currently incur for recording MSD cases. The Agency estimates approximately 1.5 million MSD cases would be recorded annually and it would take employers approximately one minute per MSD to record it in the MSD column.

Estimated Burden Hours

Actions entailing paperwork burden	Number of cases	Unit hours per case	Total burden hours
1904.4 - Complete OSHA 301 (Includes research of instructions and case details to complete the form)*	1,346,100	0.367	494,019
1904.4 - Line entry on OSHA Form 300 other than needlesticks (Includes research of instructions and case details to complete the form)**	2,980,200	0.233	694,387
1904.8 - Line entry on OSHA Form 300 for needlesticks (Includes research of instructions and case details to complete the form)***	385,000	0.083	31,955
1904.29(b)(6) - Entry on privacy concern case confidential list	400,000	0.050	20,000
1904.32 - Complete, certify and post OSHA Form 300A (Includes research of instructions)	1,541,900	0.967	1,491,017
1904.35 - Employee Access to the OSHA Form 300	110,000	0.083	9,130
1904.35 - Employee Access to the OSHA Form 301	284,000	0.083	23,572
1904.39 - Report fatalities/catastrophes	2,000	0.250	500
Learning Basics of the Recordkeeping System - turnover of personnel	308,400	1.000	308,400
1904.38 - Request for variance	0	0	0
<i>Proposed MSD Column (column M(6)) – Initial year (Familiarization with MSD)</i>	<i>1,541,900</i>	<i>0.083</i>	<i>127,978</i>
<i>Proposed MSD Column (column M(6)) – Initial year (Marking Column)</i>	<i>1,505,000</i>	<i>0.017</i>	<i>25,585</i>
Total Burden Hours – Initial Year			<i>3,226,543</i>
Total Burden Hours – Subsequent Years			<i>3,098,565</i>

*Estimate based on 40% of cases recorded on OSHA Form 300.

**Estimates of recordable cases from the 2005 Annual Survey of Occupational Injuries and Illnesses.

***Guang X. Chen, and E. Lynn Jenkins 2007. Potential Work-Related Bloodborne Pathogen Exposures by Industry and Occupation in the United States Part 1: An Emergency Department Based Surveillance Study AM. J. Ind. Med. 50:183-190 Published 2007 Wiley-Less, Inc.

OSHA expects the following two job categories to be involved with the injury and illness recordkeeping requirements of this ICR: Human Resources Specialist - Day-to-day recordkeeping duties; Industrial Production Manager - Certification of Annual Summary. The average hourly rate (including benefits) for a Human Resources Specialist (OES code 13-1079) is estimated to be \$40.40. The average hourly rate for an industrial production manager (including benefits) is estimated to be \$55.83 (OES code 11-3051, Industrial Production Managers). Note this estimated cost is for the initial year of implementation of the MSD column. The cost will decrease in subsequent years.

Occupation	Time (hours)	Rate	Total
Human Resource Specialist	2,302,030	\$40.40	\$93,002,012
<i>Human Resource Specialist (new MSD column requirements)</i>	<i>153,563</i>	<i>\$40.40</i>	<i>\$6,203,945</i>
Industrial Production Manager	770,950	\$55.83	\$43,042,138
Total			\$142,273,426

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).
- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
 - If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
 - Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

All of the costs to the regulated community are included in item 12.

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 A. 12, A.13, and A.14 in a single table.

OSHA estimates a total cost to the government of approximately \$455,000. This estimated cost is comprised of the personnel salaries of 4 employees dedicated to interpreting the requirements of Part 1904.

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

The program change is due to the proposed requirement imposed by restoring the MSD column on the OSHA Form 300. The average establishment would require an extra 6 minutes (5 minutes to familiarize themselves with the MSD column and one extra minute to record each MSD case) in the initial year the MSD column is restored. The net increase is 153,563 hours, from 3,072,980 to 3,226,543 hours

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 of information, completion of report, publication dates, and other actions.

Data collected on these forms are not published by OSHA. Estimates of occupational injuries and illnesses that are published are based on the results of the BLS Annual Survey of Occupational Injuries and Illnesses (OMB No. 1220-0045).

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

OSHA seeks approval to not display the expiration date for the OMB approval of this information collection on its forms. The expiration date, however, will be published in the Federal Register. The forms contained in this ICR do not change from year to year nor do they expire. Inclusion of an expiration date on the forms could mislead the regulated community to believe they are not required to comply with the 29 CFR Part 1904 requirements beyond that date. For example, if an employer has an old copy of the forms package, which is still relevant, but contains an expiration date that has already passed, the respondent may mistakenly believe they are no longer required to maintain these forms. Furthermore, because of the large scope of this ICR (1,541,900 respondents), OSHA anticipates printing the forms package in very large increments. Distribution of the packages is on a flow basis from various OSHA and State offices throughout the nation. This could potentially lead to logistical problems in ensuring that only packages with unexpired dates be distributed and could also potentially lead to waste of resources.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

There are no exceptions to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

B. Collection Methods

This collection does not employ statistical methods.

Attachment 1

Occupational Safety and Health Act of 1970

29 U.S.C 657 Section 8(c)(2)

29 U.S.C. 673 Section 24(a)

Attachment 2

Title 29 CFR Part 1904

Recordkeeping and Reporting

Occupational Injuries and Illnesses

Attachment 3

OSHA Forms Package

