

## Note to Reviewer

OSHA is proposing to revise its Occupational Injury and Illness Recording and Reporting (Recordkeeping) regulation (29 CFR Part 1904) to require employers to submit electronically to OSHA information captured on their completed OSHA 300, 301 and 300A Forms. These proposed new requirements are contained under 1904.41 (see attachment 1). OSHA estimates that the additional reporting requirements will result in an additional 228,664 burden hours per year. These changes are reflected in section 12, items I and J of this Information Collection Request. The proposed rule does not add to or change any employer's obligation to complete and retain the injury and illness records. The proposed rule also does not add to or change the recording criteria or definitions for these records. The proposed rule only modifies employers' obligations to transmit information from these records to OSHA.

Sections 2, 3, 4, 5, 12, 14, 15 and 16 of this Supporting Statement were modified to specifically address the changes imposed by this proposed rulemaking.

Note that the collection of data conducted under proposed 1904.41(a)(3) will be addressed under separate Information Collection Requests (ICR) prior to implementation. OSHA does not anticipate any collections to be conducted under this authority during the next three years and therefore has included zero burden hours in item 12 for this provision.

**SUPPORTING STATEMENT FOR THE  
INFORMATION COLLECTION REQUIREMENT ON RECORDKEEPING  
AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES  
(29 CFR PART 1904)  
OFFICE OF MANAGEMENT AND BUDGET (OMB)  
CONTROL NO. 1218-0176**

**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.

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. 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).

**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 785,230 employers with 1,585,374 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 §1904.42 are covered under OMB Control Number 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. OSHA uses the information gathered from Part 1904 records during its annual data collection 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.

The proposed rule's provisions requiring regular electronic submission of injury and illness data will allow OSHA to acquire a much larger and timelier amount of information about injuries and illnesses in the workplace. This will improve the Agency's ability to identify, target, and remove safety and health hazards, thereby preventing workplace injuries, illnesses, and deaths.

The act of collecting data that may be examined by OSHA and by members of the public is likely to result in behavioral outcomes that promote workplace safety and health. For example, in anticipation of sending it to OSHA, employers and managers are likely to examine more carefully their data on work-related injuries and illnesses, and through this process identify and prioritize hazards that can be abated to reduce injury or illness risk in the future. In addition, this review is likely to improve the accuracy and completeness of the data. Public posting of the data collected will be valuable in identifying patterns of injuries and illnesses across establishments where workers are exposed to similar hazards, including the identification of patterns that were previously unrecognized.

The collection of data from numerous employers will facilitate benchmarking, allowing employers to compare injury risks and rates at their establishments to those at comparable establishments. Workplace safety consultants might improve their marketing toward establishments whose injury/illness records suggest that the establishments would benefit from their services. On-line access to the injury/illness data will support the development of innovative ideas and allow everybody with a stake in workplace safety to participate in improving occupational safety and health.

Note that the collection of injury and illness data conducted under proposed 1904.41(a)(3) will be addressed under separate Information Collection Requests (ICR) prior to implementation. OSHA does not anticipate any collections to be conducted under this authority during the next three years and therefore has included zero burden hours in item 12 for this provision.

**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 (fax) 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.

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](http://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.

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.

The proposed requirements under 1904.41 require employers to submit the requested data electronically. OSHA will provide a secure website for the electronic submission of data. The website will allow for both direct data entry and submission of data through a batch file upload, as appropriate. Because many employers already maintain their Part 1904 records electronically, electronic submission of this information reduces their reporting burden under proposed 1904.41.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in A.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. OSHA estimates that 60 percent of employers will use substitute forms in lieu of the OSHA Form 301.

The information collected from establishments covered by the proposed rulemaking will overlap with what is collected by the BLS Survey of Occupational Injuries and Illnesses (1220-0045). However, BLS collects data from OSHA Form 300A and Form 301 for many employers not covered by the proposed rulemaking. Specifically, BLS collects data from these forms for a sample of 240,000 establishments representing all private industry and State and local government, regardless of establishment size and regardless of level of workplace injury and illness risk. BLS collects occupational injury and illness data from employers under a pledge of confidentiality and is prohibited from releasing establishment-specific data to the general public or to OSHA under the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA). Therefore, OSHA cannot obtain access to the information collected by the BLS at the establishment level, which the Agency needs for targeting purposes. However, OSHA is not prohibited from providing BLS complete access to the information OSHA collects. It is OSHA's intent to provide the Bureau with access to all of the data collected under these new provisions.

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

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 Control No. 1220-0045. See 29 CFR 1904.42. Of the 7.5 million establishments covered by OSHA and the State Plans, approximately 6 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.

The proposed requirements under 1904.41 are limited to establishments with 20 or more employees in a subset of industries covered by the recordkeeping rule and establishments with 250 or more employees in all industries covered by the recordkeeping rule. These size and industry criteria limit the burden on small employers.

**6. Describe the consequences to Federal program or policy activities if the collection is or is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing the 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 29 CFR 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 (and OSHA’s proposed quarterly) 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 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.**

While this information collection does not give a confidentiality assurance, 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.

Under 29 CFR Part 1904.33 employers are required to retain and update the records for five years following the end of the calendar year that the records cover. The five-year retention requirement for OSHA injury and illness records enables employers, employees, and researchers to obtain sufficient data to discover patterns and trends of illnesses and injuries and, in many cases, to demonstrate the statistical significance of such data. OSHA has concluded that the five-year retention period adds little additional cost or administrative burden, since relatively few cases will surface more than three years after the injury and illness occurred, and the vast majority of cases are resolved in a short time and do not require updating.

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.**

OSHA is collecting comments from the public through a Notice of Proposed Rulemaking. All comments collected, including comments pertaining to the estimated burden, will be addressed in the rulemaking process. In addition, OSHA held three stakeholder meetings in 2010 to gather

information for the development of the proposed rule and will also hold an informal public meeting on January 9<sup>th</sup> as part of the rulemaking process.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration 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.**

While there is no assurance of confidentiality covering information recorded on these forms and documents, the 1904 regulations include several provisions to protect the privacy of injured or ill employees. 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. 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 for 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.**
- **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 should be included in Item 13.**

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 are available using the Standard Industrial Classification (SIC) system. OSHA applied a growth factor of 1.4% to the SBA data. This growth rate was calculated using County Business Patterns 2005-2008 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 to complete 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 on a confidential list for a "privacy concern case," as defined under §1904.29(b)(7), 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 1,585,374 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 111,540 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 287,980 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) Proposed 1904.41(a)(1) will require establishments with 250 or more employees in industries covered by Part 1904 to electronically send their Form 300 and 301 data to OSHA quarterly. This will entail the submission of detailed case characteristic data entered on the OSHA Form 300 Log of Work-Related Injuries and Illnesses and the OSHA Form 301 Injury and Illness Incident Report. These employers will also be required to submit their Form 300A summary data to OSHA on an annual basis. There are approximately 38,000 establishments that will be subject to this requirement. Detailed case characteristic data will be submitted on approximately 900,000 occupational injuries and illnesses from these establishments on an annual basis. For time required for the data submission, OSHA used the estimated unit time requirements reported

by BLS in their paperwork burden analysis for the Survey of Occupational Injuries and Illnesses (SOII) (OMB Control Number 1220-0045, August 16, 2010.). BLS estimated 10 minutes per establishment for electronic submission of the information on Forms 300 (*Log of Work-Related Injuries or Illnesses*) and 300A (*Summary of Work-Related Injuries and Illnesses*) and 10 minutes per recordable injury/illness case for electronic submission of the information on Form 301 (*Injuries and Illnesses Incident Report*).

(J) Proposed 1904.41(a)(2) will require establishments with 20 or more employees in certain high risk industries to electronically send their Form 300A (Summary of Work-Related Injuries and Illnesses) data to OSHA once a year. This includes the submission of the average employment, hours worked, and aggregate totals of the numbers of injuries and illnesses that occurred at the establishment. There are approximately 420,000 establishments that will be subject to this requirement. For time required for the data submission, OSHA used the estimated unit time requirements reported under the OSHA Data Initiative (ODI) (1218-0209) which currently collects this data. (It should be noted proposed 1904.41(a)(2) will replace the ODI.) The estimated time required for electronic submission of the information on Form 300A (*Summary of Work-Related Injuries and Illnesses*) is ten minutes per establishment.

(K) The collection of injury and illness data conducted under proposed 1904.41(a)(3) will be addressed under separate Information Collection Requests (ICR) prior to implementation. OSHA does not anticipate any collections to be conducted under this authority during the next three years and has included zero burden hours in item 12 for this provision.

(L) 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);

(M) 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 (312,717 establishments) and will require a one hour orientation to learn the basics of the recordkeeping system.

## 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)*	1,180,529	0.367	433,254
1904.4 - Line entry on OSHA Form 300 other than needlesticks (Includes research of instructions and case details to complete the form)**	2,613,635	0.233	608,977
1904.8 - Line entry on OSHA Form 300 for needlesticks (Includes research of instructions and case details to complete the form)***	337,645	0.083	28,025
1904.29(b)(6) - Entry on privacy concern case confidential list	350,800	0.05	17,540
1904.32 - Complete, certify and post OSHA Form 300A (Includes research of instructions)	1,585,374	0.967	1,533,057
1904.35 - Employee Access to the OSHA Form 300	111,540	0.083	9,258
1904.35 - Employee Access to the OSHA Form 301	287,980	0.083	23,902
1904.39 - Report fatalities/catastrophes	2,028	0.25	507
Learning Basics of the Recordkeeping System - turnover of personnel	312,717	1	312,717
1904.38 - Request for variance	0	0	0
Proposed 1904.41(a)(1) - submission of establishment data	38,094	0.167	6,362
Proposed 1904.41(a)(1) - submission of case characteristic data	890,288	0.167	148,678
Proposed 1904.41(a)(2) - submission of summary data	440,863	0.167	73,624
Proposed 1904.41(a)(3) – special collections	0	0	0
<b>Total Burden Hours</b>			<b>3,195,901</b>

\*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.

OSHA expects the following two job categories to be involved with the injury and illness recordkeeping requirements of this ICR: Human Resource, Training, and Labor Relations Specialist, Not Elsewhere Classified (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 (SOC code 13-1079) is estimated to be \$40.04. The average hourly rate for an industrial production manager (including benefits) is estimated to be \$59.88 (SOC code 11-3051, Industrial Production Managers).

Occupation	Time (hours)	Rate	Total
Human resources specialist	2,403,214	\$40.04	\$96,224,689
Industrial Production Manager	792687	\$59.88	\$47,466,098
Total	3,195,901		<b>\$143,690,787</b>

**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.)**

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

OSHA estimates a total cost to the government of approximately \$2,375,000. This estimated cost is comprised of the personnel salaries of 3 FTE dedicated to interpreting the requirements of Part 1904 (\$341,000) and the systems requirements for collecting the data under the proposed rulemaking (\$2,034,000).

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

There is a program change increase in burden hours from 2,967,237 to 3,195,901 (a total increase of 228,664 hours). The increase is due to the additional reporting requirements contained in the proposed 1904.41. It should be noted that this increase will be partially offset by eliminating the hours contained under OMB control number 1218-0209 upon implementation.

**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.**

Published estimates of occupational injuries and illnesses are based on the results of the BLS Annual Survey of Occupational Injuries and Illnesses (OMB Control No. 1220-0045).

OSHA will make public the injury and illness data collected under the proposed 1904.41, as it does now with the injury and illness data the agency currently collects under the ODI (1218-0209). The data will be released under the conditions discussed in questions 7 and 10 of this Supporting Statement.

The released data will be tabulated at the establishment level. The data will be made available to the public as it is collected. It is OSHA's intent to publish the data as quickly as possible, however, prior to publication OSHA will ensure the data does not include Personally Identifiable Information (PII). The time required to clean the data will be dependent on the quantity of the data collected and the resources available to clean the data. OSHA does not anticipate publishing any complex analyses of the data.

**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 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 (1,585,374 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.**

OSHA is not seeking such an exception.

## **B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

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

Attachment 1  
Proposed Regulatory Text

**PART 1904 -- [AMENDED]**

1. The authority citation for part 1904 continues to read as follows:

AUTHORITY: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 3-2000 (65 FR 50017), and 5 U.S.C. 533.

**Subpart E--Reporting Fatality, Injury and Illness Information to the Government**

2. Add an authority citation to Subpart E of 29 CFR part 1904 to read as follows:

AUTHORITY: Sections 8 and 24 of the Occupational Safety and Health Act (29 U.S.C. 657, 673), 5 U.S.C. 553, and Secretary of Labor's Order 1-2012 (77 FR 3912, Jan. 25, 2012).

3. Revise §1904.41 to read as follows:

**§ 1904.41 Electronic submission of injury and illness records to OSHA.**

(a) Basic requirements—(1) Quarterly electronic submission of Part 1904 records by establishments with 250 or more employees. If your establishment is required to keep records under Part 1904 and had 250 or more employees (including full-time, part-time, temporary, and seasonal workers) at any time during the previous calendar year, you must electronically send to OSHA or OSHA's designee, on a quarterly basis, all of the information from the records that you keep under Part 1904.

(i) The data for injuries, illnesses, and fatalities recorded during the period of January through March must be submitted no later than April 30.

(ii) The data for injuries, illnesses, and fatalities recorded during the period of April through June must be submitted no later than July 31.

(iii) The data for injuries, illnesses, and fatalities recorded during the period of July through September must be submitted no later than October 31.

(iv) The data for injuries, illnesses, and fatalities recorded during the period of October through



December must be submitted no later than January 31.

(v) The summary data from OSHA Form 300A must be submitted no later than March 2 of the year after the calendar year covered by the form.

(2) Annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries. If your establishment had 20 or more employees (including full-time, part-time, temporary, and seasonal workers) at any time during the previous calendar year, and is classified in any of the industries listed in Appendix A to Subpart E of Part 1904, you must electronically send to OSHA or OSHA's designee, once a year, the information from your completed annual summary form (Form 300A). The information must be submitted no later than March 2 of the year after the calendar year covered by the form.

(3) Electronic submission of Part 1904 records upon notification. Upon notification, you must electronically send to OSHA or OSHA's designee the requested information, at the specified time interval, from the records that you keep under Part 1904.

(b) Implementation—(1) Does every employer have to send data to OSHA? No, in any given year, some employers will have to send data to OSHA, and some employers will not. If your establishment is required to keep records under Part 1904 and had 250 or more employees in the previous calendar year, you must submit all of your Part 1904 data to OSHA on a quarterly basis, without notification from OSHA. Also, if your establishment is classified in any of the industries listed in Appendix A to Subpart E of Part 1904 and had 20 or more employees in the previous calendar year, you must submit the information from the annual summary form (Form 300A) to OSHA once a year, without notification from OSHA. This information must be submitted no later than March 2 of the year after the calendar year covered by the form (for example, no later than March 2, 2012, for the 2011 annual summary form). Otherwise, you must only submit injury and illness data to OSHA if you are notified to do so for an individual data collection.

(2) How will I be notified that I have to submit the data? Employers required to submit data on a quarterly basis (that is, employers that are required to keep records under Part 1904 and had 250 or more employees in the previous calendar year) will not be notified. Employers required to submit data once a year (that is, employers, in designated industries, that had 20 or more employees in the previous calendar year) will also not be notified. Employers required to submit data as part of an individual data collection will be notified by mail. OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA website.

(3) How often do I have to submit the data? Establishments that are required to keep records under Part 1904 and had 250 or more employees in the previous calendar year must submit their Form 300 and Form 301 data on a quarterly basis and their annual summary data, from Form 300A, on an annual basis. Establishments that are in designated industries and had 20 or more employees in the previous calendar year must submit their Form 300A data once a year. Establishments that receive a notification for an individual data collection must submit their data according to the frequency specified in the notification.

(4) How do I submit the data? Establishments must submit their data electronically. OSHA will provide a secure website for the electronic submission of data. For individual data collections, OSHA will include the website's location in the notification for the data collection. The website will allow for both direct data entry and submission of data through a batch file upload, as appropriate.

(5) Do I have to submit data if I am normally exempt from keeping OSHA injury and illness records? If you are exempt from keeping injury and illness records under §1904.1 and/or §1904.2 of this part, you will have to submit data only if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, you must keep the

injury and illness records required by Part 1904 and submit data as directed.

(6) Do I have to submit data if I am located in a State-Plan State? The requirements for submitting data apply to all employers, including employers in State-Plan States.

4. Add Appendix A to Subpart E of Part1904 to read as follows:

**Appendix A to Subpart E of Part 1904 – Designated industries for annual electronic submission of OSHA annual summary form (Form 300A) by establishments with 20 or more employees in designated industries.**

<u>NAICS</u>	<u>Industry</u>
11	Agriculture, Forestry, Fishing and Hunting
22	Utilities
23	Construction
31-33	Manufacturing
42	Wholesale Trade
4413	Automotive Parts, Accessories, and Tire Stores
4421	Furniture Stores
4422	Home Furnishings Stores
4441	Building Material and Supplies Dealers
4442	Lawn and Garden Equipment and Supplies Stores
4451	Grocery Stores
4521	Department Stores
4529	Other General Merchandise Stores
4533	Used Merchandise Stores
4543	Direct Selling Establishments
4811	Scheduled Air Transportation

4832	Inland Water Transportation
4841	General Freight Trucking
4842	Specialized Freight Trucking
4855	Charter Bus Industry
4871	Scenic and Sightseeing Transportation, Land
4872	Scenic and Sightseeing Transportation, Water
4881	Support Activities for Air Transportation
4882	Support Activities for Rail Transportation
4883	Support Activities for Water Transportation
4884	Support Activities for Road Transportation
4889	Other Support Activities for Transportation
4921	Couriers
4922	Local Messengers and Local Delivery
4931	Warehousing and Storage
5152	Cable and Other Subscription Programming
5311	Lessors of Real Estate
5321	Automotive Equipment Rental and Leasing
5322	Consumer Goods Rental
5323	General Rental Centers
5617	Services to Buildings and Dwellings
5621	Waste Collection
5622	Waste Treatment and Disposal
5629	Remediation and Other Waste Management Services
6216	Home Health Care Services

6221	General Medical and Surgical Hospitals
6222	Psychiatric and Substance Abuse Hospitals
6223	Specialty (except Psychiatric and Substance Abuse) Hospitals
6231	Nursing Care Facilities
6232	Residential Mental Retardation, Mental Health and Substance Abuse Facilities
6233	Community Care Facilities for the Elderly
6239	Other Residential Care Facilities
6243	Vocational Rehabilitation Services
7112	Spectator Sports
7131	Amusement Parks and Arcades
7132	Gambling Industries
7211	Traveler Accommodation
8113	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
8123	Drycleaning and Laundry Services