

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

Note to Reviewer

OSHA has revised 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 new requirements are contained under 1904.41(see supplementary attachments). OSHA estimates that the additional reporting requirements will result in an additional 173,406 burden hours for the initial year of implementation and 254,029 hours for subsequent years. These changes are reflected in section 12, items J and K of this Information Collection Request (ICR). The final rule also modifies employers' obligation to inform each employee of their right to report work-related injuries and illnesses to the employer. This new requirement is contained in 1904.35 and results in no additional burden hours. This change is discussed in section 12, item H of this ICR. The rule does not add to or change any employer's obligation to complete and retain the injury and illness records. The rule also does not add to or change the recording criteria or definitions for these records.

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

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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 640,000 employers with 1,300,000 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

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fatality, injury and illness information to the government.

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 has used 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 to produce national statistics on occupational injuries and illnesses. (Note: The burden associated with the requirements of §1904.42 are covered under OMB Control Number 1220-0045.) 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 final 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.

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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.

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.

1904.39(a) requires employers to report to OSHA within eight hours a fatality resulting from a work-related incident. Employers must report to OSHA within twenty-four (24) hours the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident. Employers have three options for reporting the event:

1. By telephone to the [nearest OSHA Area Office](#) during normal business hours.
2. By telephone to the 24-hour OSHA hotline (1-800-321-OSHA or 1-800-321-6742).
3. OSHA developing an online portal for reporting this information electronically, which is accessible on OSHA's website (www.osha.gov/pls/ser/serform.html)

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 OSHA has made available to the public the OSHA Forms 300, 300A and 301 as a Microsoft Excel spreadsheet and in a fillable PDF format. The use of such technology, including the advantages of centralization, reduces employer burden.

The new 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. OSHA also plans to offer a direct submission option via a machine-to-machine Application Programming Interface (API) for employers that have existing OSHA recordkeeping software. Because many employers already maintain their Part 1904 records electronically, electronic submission of this information reduces their reporting burden under proposed 1904.41. (An example mockup of the new collection system has been uploaded under supplementary documents. The "PRA Burden Box" will appear on the website's home page.)

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.

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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 final rule 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 final rule. 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 North American Industry Classification System (NAICS) codes 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, more than six million fall under these exemptions. These exemptions do not apply to the requirement that employers must report to OSHA a fatality, in-patient hospitalization, amputation, or loss of an eye 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

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industry criteria limit the burden on small employers.

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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 the 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 conduct 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 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 to help 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**

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- **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 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).

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 report fatalities incidents to OSHA within 8 hours of occurrence and in-patient hospitalization, amputation, or loss of eye incidents within 24 hours. OSHA's investigations of severe injuries and illnesses are most effective when these incidents are reported immediately following their occurrence. Any delay in OSHA's receipt of these reports can seriously hinder the Agency's efforts to ensure the hazard no longer exists and to determine the cause of the incident, as the scene can change significantly in a short period of time.

29 CFR Part 1904.33 requires employers 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. 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.

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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 received a number of comments relating to the estimated time necessary to meet the paperwork requirements of the proposed changes published in the November 8, 2013 Improve Tracking of Workplace Injuries and Illnesses Notice of Proposed Rulemaking (78 FR 67254 - 67283) and its August 14, 2014 Supplemental Notice (79 FR 47605-47610) . References to documents below are given as “Ex.” followed by the document number. The document number is the last sequence of numbers in the Document ID Number on <http://www.regulations.gov>. For example, Ex. 17, the proposed rule, is Document ID Number OSHA-2013-0023-0017.

Topic 1: A number of comments were submitted pertaining to the extra time required to submit data on a quarterly basis, rather than an annual basis (Ex. 157, 247). Paula Loht of Gannett Fleming Inc. wrote “Based on my calculations, if the proposed reporting requirements are implemented, it would take my two-person staff two weeks of full-time work every quarter to comply, and would also require input from our technical staff. That would be more than 160 person hours, four times per year.”

Response: In the final rule, OSHA requires case specific data to be submitted electronically on an annual basis rather than a quarterly basis. This will effectively reduce the time required to log into the collection system multiple times per year. It will also allow employers to comply with the existing review and certification requirements under 1904.32 prior to submitting their data to OSHA, eliminating the need for extra review employers would have taken prior to a quarterly submission. An annual submission, rather than a quarterly submission, results in a lower burden.

Topic 2: A number of comments were submitted pertaining to the time required to verify the accuracy of the data prior to its submittal to OSHA (Ex. 157, 247, 1205). Rick Hartwig of the Graphic Arts Coalition wrote: “The time estimates by OSHA with regard to the electronic submission process also does not accurately account for the real time it will take an employer or its staff to review the reports, verify information, ensure accuracy of the data entered, enlist the assistance of knowledgeable opinions as necessary, redacting personal information, and to ensure compliance with all applicable regulatory requirements, all prior to submittal to OSHA. (Ex. 1205)”

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Response: The data is submitted after the employer has certified to the accuracy of the records in accordance with the already existing requirements of 1904.32, Annual Summary. The time required to review and certify the records is accounted for under this provision. The new reporting requirements under 1904.41 require the employer to submit the already verified information to OSHA. OSHA, therefore, did not adjust its estimates for this provision.

Topic 3: A number of comments were submitted pertaining to the time OSHA used to estimate the submittal of data from the OSHA form 300 (Ex. 247, 1328, 1141). Eric Conn, representing the National Retail Federation (NRF), wrote "...OSHA bases its time estimates on the time it takes employers to submit data to the Bureau of Labor Statistics (BLS) in response to its survey. The data submitted for the BLS survey, however, is more limited in terms of information requested. BLS requests only certain data for up to 15 cases, but the Proposed Regulation would require all relevant Form 300 and/or 300A information from the entire injury and illness record. Thus the time burden would actually be much greater than OSHA predicts (Ex. 1328)."

Response: OSHA agrees that using the estimate of 10 minutes per establishment for entry of the OSHA Forms 300 and 300A data underestimates the time that will be required to respond to this data collection. Establishments with 250 or more employees will be required to submit the Form 300 data for all cases entered on the log. Accordingly, OSHA is now basing its estimation of the time required to submit Log 300 data on the number of injury and illness cases that will be submitted rather than on an estimate of time per establishment. OSHA now estimates employers will require 2 minutes to enter the Form 300 one line entry for each of the 714,000 cases that will be submitted to OSHA. This is in addition to the 10 minutes per establishment for the data from the OSHA Form 300A. Basing estimates on case counts for Form 300 data provides a truer estimate of total.

Topic 4: A number of comments were submitted pertaining to keeping ones records electronically and to submitting a "batch file" in response to the new collection requirements (Ex. 247, 1326, 1336, 1141, 1205). Michael Hall of the Pacific Maritime Association (PMA) wrote: "Under the current recording system, PMA and other employers have not maintained electronic records that are capable of being uploaded or transmitted because they are only inspected during an OSHA inspection. Accordingly, moving to an electronic recording system capable of transmission will be both time consuming and costly (Ex. 1326)." Marc Freedman of the Coalition for Workplace Safety (CWS) wrote "OSHA does not estimate how many employers currently maintain electronic records. As OSHA asserts, 30 percent of ODI respondents do not *submit* records electronically; therefore, one can assume that these records are not *maintained* electronically. From this, it can be safely assumed that a sizeable number of employers will also be copying the required injury and illness information from the establishment's paper forms into the electronic submission forms—a cost OSHA simply ignores when calculating the average cost per affected establishment with 250 or more employees. Moreover, OSHA has not analyzed whether current existing electronic programs would present such data in a format acceptable to be uploaded to OSHA. Without knowing what types of

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electronic forms OSHA would consider for uploading, the regulated community is unable to estimate whether uploading such information would impose increased costs (Ex. 1141).”

Response: The final rule does not require employers to adopt an electronic system to record occupational injuries and illnesses and to maintain OSHA Forms 300, 301 and 300A. The new provisions only require employers to submit to OSHA the information they have already recorded. Creating and uploading a batch file to a secure Web site is an option that will be provided to employers, not a requirement. If the employer has software with an export function that creates a file to OSHA’s specifications, they may use that method to meet their reporting obligations and minimize their burden to do so. Many large employers regularly use this method for responding to the BLS SOII survey.

OSHA believes many large establishments subject to this requirement will already be keeping their records electronically and will submit their data by batch file or via the API. This will substantially reduce the time needed to comply with the reporting requirement. However, the estimates contained in the Final Economic Analysis (FEA) and the ICR are calculated with the assumption that all submissions will be made by manually entering and submitting the required data via the web form. No time savings are included in these estimates for employers that will submit their data through a batch file or via the API. OSHA will adjust the estimates under renewed ICRs when we have solid information regarding the percentage of employers that take advantage of the batch file and API options.

Topic 5: A number of comments were submitted pertaining to the necessity to train employees on how to use the newly created reporting system (Ex. 1205, 1336, 1141). Susan Yashinskie of the American Fuel & Petrochemical Manufacturers (AFPM) wrote “This estimate is highly inaccurate and significantly understates the costs given the amount of time it will take for employers to learn how to use and navigate the proposed electronic reporting system ... “(Ex. 1336). Rick Hartwig of the Graphic Arts Coalition wrote: “Regarding the cost estimates outlined within the proposal, they do not account for actual activities and efforts that will be required by the employer. These additional costs can include the training of personnel ...to learn the different elements of the new system ...” (Ex. 1205).

Response: OSHA agrees that employers will require time to create an account and familiarize themselves with the Web site prior to entering and submitting the required data. This will be a onetime cost in the initial year with costs in subsequent years for establishment with employee turnover. OSHA estimates employers will require 10 minutes to accomplish this task.

Topic 6: Many commenters were concerned that requiring electronic submission might be a problem for some small firms. No clear examples were provided of an establishment with over 250 employees that did not have computers and internet access. (Exs. 1113, 1359, 1370, 1386).

Response: Based on the comments to the proposed rule, and OSHA’s own experience, the Agency believes that large establishments with 250 or more employees have access to computers

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and the internet. OSHA believes that establishments with 20 or more employees are highly likely to have access to the Internet and that the burden of electronic reporting is low even for the few employers for whom it may be more difficult to access the Internet. OSHA sound a survey, conducted by a contractor for the Office of Advocacy of the Small Business Administration (SBA) in the spring of 2010, on the use of Internet connectivity by small businesses, called "The Impact of Broadband Speed and Price on Small Business" (http://www.sba.gov/sites/default/files/rs373tot_0.pdf). This survey suggests that at least 90 percent of small businesses surveyed use the Internet at their business. Further, the survey noted that 75 percent of all small businesses not using the Internet were small businesses with five or fewer employees. Given the survey's estimates that 50 percent of small businesses have fewer than 5 employees, this means that 95 percent of all small businesses with five or more employees have Internet connections. OSHA believes that even this 95 percent is an underestimate for two reasons. First, the survey is five years old, and during the past seven years the cost of both computer equipment and Internet access has fallen (for example, since May 2008 the BLS Personal Computer Index has fallen by nearly 20 percent; http://data.bls.gov/timeseries/CUSR0000SEEE01?output_view=pct_3mths). Second, the survey is of small entities, not establishments. OSHA can show that a significant proportion of small establishments are a part of non-small entities, and those larger entities are even more likely to have computers and Internet connections.

OSHA estimates that 95% of the establishments subject to the annual reporting of the summary data have access to a computer with an Internet connection, either at home or at work. The remaining establishments would have to use off-site facilities, such as public libraries. OSHA estimates in the PEA that finding and using such off-site facilities would add an hour (including transportation and waiting time), on average, to the time required by the recordkeeper to submit the data electronically. For some establishments, they might need to travel next door to find a computer or internet access, while others might need to drive for an hour or more.

In addition to these six common topics, several comments were submitted on miscellaneous issues pertaining to paperwork burden.

Bill Taylor of the Public Agency Safety Management Association (PASMA)-South Chapter wrote "...One of our member sites has approximately 2,600 employees and their estimated cost of compliance with this proposed quarterly reporting requirement is \$7,250 ...This employer also assumed labor costs of \$50 per hour, which includes benefits" (Ex. 157). PASMA's labor cost estimate of \$50 per hour including benefits is consistent with OSHA's estimate of \$48.78 for an Occupational Health and Safety Specialist to perform the employer's day-to-day recordkeeping duties.

Michael Hall of the Pacific Maritime Association (PMA) wrote: "OSHA's estimates do not take into account the costs described above that are unique to the maritime industry. In particular, the man-hours that will have to be devoted to attempting to prevent, if possible, duplicative reporting will be enormous" (Ex. 1326). The costs of properly recording information on OSHA Forms

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300, 301 and 300A are already accounted for in the current recordkeeping requirements burden estimates. The new reporting requirements under 1904.41 only require the employer to submit the data that is already recorded.

Marc Freedman of the Coalition for Workplace Safety (CWS) wrote: “Because of the consequences of recording an injury under this proposal, employers can be expected to involve more experts in some cases. This is particularly the case with musculoskeletal disorders (“MSD”) ... employers are more likely to incur substantial costs to conduct evaluations similar to Caterpillar’s in order to determine whether an injury is truly work-related. This is particularly the case with musculoskeletal disorder injuries. OSHA has not accounted for these additional costs that are likely to flow from this proposed regulation” (Ex. 1411). OSHA has not adjusted its estimate for the time it requires to determine the recordability of an injury or illness. Employers are already required to certify to the accuracy of the OSHA forms prior to submitting these data. The time required to record cases on the OSHA forms is already accounted for in the estimates. It should be noted that the “MSD” column Mr. Freedman references does not exist at this time. OSHA will account for burden associated with future rulemaking requirements in future ICRs. It should also be noted that OSHA currently publishes establishment-specific injury and illness rates on its Web site and has not observed any indication that publication of that data has increased the time needed to record injuries and illnesses. OSHA does not agree with Mr. Freedman’s conjecture that publication of the data captured by these revised requirements will result in additional burden for recording injuries and illnesses.

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

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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

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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. For example, 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 establishments required to maintain the injury and illness records and the number of injury and illness cases they record each year. Both of these 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 2013 BLS Annual Survey. The establishment data are based on an extrapolation of 2012 County Business Pattern and Enterprise Statistics from the US Census Bureau.

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;

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- (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 on a confidential list for a "privacy concern case," as defined under §1904.29(b)(7), will average 3 minutes; all recorded needlesticks are privacy concern cases and OSHA estimates 1.5% of other recordable cases are privacy concern cases. This estimate is derived using BLS counts of cases involving Part of Body Code 34 (excluding 341), Nature code 62 or Event code 1116 as a percent of total cases involving days away from work.
- (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 all 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 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 a request to access the OSHA Form 300 in 7% of the covered establishments. Again, this estimate is based on information obtained during approximately 800 recordkeeping audit inspections. OSHA estimates 10% of injured workers will request access to their OSHA Form 301;
- (H) The new provisions in 1904.35 require employers to inform employees of their right to report injuries and illnesses without retaliation and prohibit employers from having policies in place that discourage employees from reporting injuries and illnesses. This requirement can be met by posting a recently revised version of the OSHA Poster. Outreach materials associated with the new rule will inform employers that they can meet this new obligation by porting the revised poster. The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within the definition of collection of information (5 CFR 1320.3(c)(2)).
- (I) 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

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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;

(J) 1904.41(a)(1) requires establishments with 250 or more employees in industries covered by Part 1904 to electronically send their Form 300, 300A and 301 data to OSHA annually. 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. Each establishment subject to this provision will require 10 minutes to register and familiarize themselves with the reporting website and 10 minutes to submit their Form 300A data. They will also require 12 minutes to submit the Form 300 and 301 data for each injury and illness recorded on these forms. These requirements will be phased in over a two year period. These establishments will be required to report only the 300A data during the initial year of the collection and will be required to report all required data during subsequent years.

(K) 1904.41(a)(2) requires establishments with 20 to 249 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. Each establishment subject to this provision will require 10 minutes to register and familiarize themselves with the reporting website and 10 minutes to submit their Form 300A data. OSHA estimates 95% of covered establishments have ready access to the internet. The remaining 5% will require one hour providing the data from off-site facilities (e.g. library).

(L) 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.

(M) Employers must report to OSHA when an employee experiences a work-related incident resulting in the death of the worker, in-patient hospitalization, an amputation or the loss of an eye. Based on the number of incidents reported during the first quarter of CY 2015, OSHA estimates that approximately 20,000 reportable incidents will occur each year. Each report will take about 30 minutes to complete, including the time to gather, review and reported the information required (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);

(N) 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 and will require a one hour orientation to learn the basics of the recordkeeping system.

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Estimated Burden Hours									
Actions entailing paperwork burden	Current OMB Approval			Implementation of the Final Rule Initial Year			Implementation of the Final Rule Subsequent Years		
	Number of cases	Unit hours per case	Total burden hours	Number of cases	Unit hours per case	Total burden hours	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)*	1,015,702	0.367	372,763	796,983	0.367	292,493	796,983	0.367	292,493
1904.4 - Line entry on OSHA Form 300 other than needlesticks (Includes research of instructions and case details to complete the form)**	2,201,610	0.233	512,975	1,654,813	0.233	385,571	1,654,813	0.233	385,571
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	337,645	0.083	28,025	337,645	0.083	28,025
1904.29(b)(6) - Entry on privacy concern case confidential list	359,661	0.05	17,983	362,467	0.05	18,123	362,467	0.05	18,123
1904.32 - Complete, certify and post OSHA Form 300A (Includes research of instructions)	1,594,040	0.967	1,541,437	1,364,503	0.967	1,319,474	1,364,503	0.967	1,319,474
1904.35 - Employee Access to the OSHA Form 300	111,583	0.083	9,261	95,515	0.083	7,928	95,515	0.083	7,928
1904.35 - Employee Access to the OSHA Form 301	253,926	0.083	21,076	199,246	0.083	16,537	199,246	0.083	16,537
1904.39 - Report fatalities/catastrophes	119,028	0.5	59,514	20,000	0.5	10,000	20,000	0.5	10,000
1904.41(a)(1) - create an account and review navigation	0	0	0	33,674	0.167	5,624	6,735	0.167	1,125
1904.41(a)(1) - electronic submission of OSHA Form 300A data by establishments with 250 or more employees	0	0	0	33,674	0.167	5,624	33,674	0.167	5,624

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1904.41(a)(1) - electronic submission of injury and illness case data by establishments with 250 or more employees	0	0	0	0	0.2	0	713,967	0.2	142,793
1904.41(a)(2) - create an account and review navigation	0	0	0	431,673	0.167	72,089	86,335	0.167	14,418
1904.41(a)(2) - electronic submission of OSHA Form 300A data by establishments with 20 or more employees but fewer than 250 employees in designated industries	0	0	0	410,089	0.167	68,485	410,089	0.167	68,485
1904.41(a)(2) - electronic submission of OSHA Form 300A data by establishments with 20 or more employees but fewer than 250 employees in designated industries - with no internet connection				21,584	1	21,584	21,584	1	21,584
1904.41(a)(3) - Electronic submission of Part 1904 records upon notification	0	0	0	0	0	0	0	0	0
Learning Basics of the Recordkeeping System - turnover of personnel	538,656	1	538,656	272,901	1	272,901	272,901	1	272,901
1904.38 - Request for variance	0	0	0	0	0	0	0	0	0
Total Burden Hours			3,101,689			2,524,458			2,605,081
*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 NOTE: Totals may not sum exactly due to rounding.									

OSHA expects the following two job categories to be involved with the injury and illness recordkeeping requirements of this ICR: the employer's Occupational Health and Safety Specialist - day-to-day recordkeeping duties (i.e. all items included in the Estimated Burden Hours table except for 661,629 hours included in the 1904.32 requirements); Industrial Production Manager - Certification of Annual Summary (see discussion under (F) above). The average hourly rate (including a 44% addition for benefits) for an Occupational Health and Safety Specialist ([SOC code 29-9011](#)) is estimated to be \$48.78. The average hourly rate for an industrial production manager (including a 44% addition for benefits) is estimated to be \$70.37 ([SOC code 11-3051](#)). May 2014 BLS OES estimates are used for these calculations. For historical data see <http://www.bls.gov/oes/tables.htm>.

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Occupation	First Year Implementation			Subsequent Years		
	Time (hours)	Rate	Total	Time (hours)	Rate	Total
Occupational Health and Safety Specialist	1,985,000	\$48.78	\$96,828,280	1,922,829	\$48.78	93,795,610
Industrial Production Manager	682251.5	\$70.37	\$48,010,038	682251.5	\$70.37	48,010,038
Total			\$137,872,856			144,410,729

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.

The cost to the government can be categorized into IT hardware and software costs, helpdesk costs, and OSHA program management personnel costs. The creation of the reporting system hardware and software infrastructure will have an initial estimated cost of \$1,545,162. Annualized over 10 years at seven percent interest, this is \$219,996 per year. Administration of the recordkeeping system requires three full-time-equivalent workers (FTEs). OSHA believes these FTEs will cost the government \$150,000 each, including salary and benefits, for a total of \$450,000 per year. BLS provided a unit cost estimate of 28 cents per transaction for the BLS SOII survey. OSHA believes this is a reasonable estimate of the cost to administer this data collection. This would amount to \$372,000 per year for about 1.3 million transactions. Annual help desk costs are estimated at \$200,000. The total annualized cost would amount to \$1,242,000 (rounded), or just over \$1.2 million.

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

This ICR includes both program changes and adjustments.

The burden hours for the additional reporting requirements contained in the 1904.41 are estimated to be 173,406 for the initial year of implementation and 254,029 for subsequent years.

There is an adjustment decrease of 750,637 burden hours due to decreases in 1) the number of establishments covered by the recordkeeping rule; 2) the number of injuries and illness recorded by covered employers; and 3) the number of fatalities, amputations, hospitalization, and loss of eye reported by employers. These estimates have all been updated using the most current data available.

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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 (1.3 million covered establishments), 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.

The expiration date will be published on the data collection web portal.

18. Explain each exception to the certification statement.

OSHA is not seeking such an exception.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

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