

Improve Tracking Workplace Injuries and Illnesses (29 CFR Part 1904)

OMB Control Number: 1218-0NEW

Expiration Date: To be determined

Note to Reviewer

OSHA is undertaking two actions that will impact the [Recordkeeping and Reporting Occupational Injuries and Illnesses \(29 CFR Part 1904\)](#), “Recordkeeping” Information Collection, OMB control number 1218-0176. First, OSHA must prepare an ICR requesting OMB to extend their approval for the currently approved provisions in the Recordkeeping IC. Second, OSHA must prepare an ICR for the *Improve Tracking of Workplace Injuries and Illnesses* NPRM (RIN 1218-AD40), which impacts information collection requirements contained in the Recordkeeping IC.

Since the Agency can only take one action at a time on an IC, OSHA is requesting a separate OMB control number for the *Improve Tracking of Workplace Injuries and Illness* NPRM ICR. This ICR will only address information collection requirements in the NPRM.

The Agency proposes, if OMB approves both the [Recordkeeping and Reporting Occupational Injuries and Illnesses \(29 CFR Part 1904\)](#) (OMB Control Number 1218-0176) and the new *Improve Tracking of Workplace Injuries and Illness* (OMB Control number 1218-0new) the Agency, in the future, will combine the *Improve Tracking Workplace Injuries and Illness* into the [Recordkeeping and Reporting Occupational Injuries and Illnesses \(29 CFR Part 1904\)](#).

OSHA is proposing to revise its Occupational Injury and Illness Recording and Reporting (Recordkeeping) regulation (29 CFR Part 1904) to require certain employers to submit electronically to OSHA information captured on their completed OSHA 300, 301, and 300A Forms. In addition, OSHA is proposing to remove the current requirement for establishments with 250 or more employees, not in a designated industry, to electronically submit information from their Form 300A to OSHA on an annual basis. These proposed requirements are contained under 1904.41 (see attachment 1). OSHA estimates that the additional reporting requirements will result in an additional 71,646 burden hours per year. 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.

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**SUPPORTING STATEMENT FOR
THE INFORMATION COLLECTION IN THE IMPROVE TRACKING WORKPLACE
INJURIES AND ILLNESSES (29 CFR PART 1904) RULEMAKING
OFFICE OF MANAGEMENT AND BUDGET
(OMB) CONTROL NUMBER 1218-0NEW
(March 2022)**

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.

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The proposed rule would require establishments that had 100 or more employees in the previous year and are in designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA or OSHA's designee on an annual basis.

The proposed requirement would provide systematic access for OSHA to the establishment-specific, case-specific injury and illness information that these establishments are already required to collect. Access to these data will allow the agency to more efficiently focus its enforcement and outreach resources toward establishments that are experiencing specific types of occupational injury and illness. Expanded public access to establishment-specific, case-specific, injury and illness data would allow employers, employees, potential employees, employee representatives, customers, potential customers, researchers, and the general public to make informed decisions about the workplace safety and health at a given establishment, and this accessibility will ultimately result in the reduction of occupational injuries and illnesses.

In addition, the proposed rule would rescind the requirement for establishments with 250 or more employees that are in industries covered by the recordkeeping requirements but not on Appendix A to submit their form 300A data. OSHA also proposes to require establishments that use a code as an establishment name to provide a legal company name as well.

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.

Section 1904.41 requires certain employers to submit requested data electronically. OSHA provides a secure website for the electronic submission of data. The website allows for both direct data entry and submission of data through a batch file upload, as appropriate. OSHA also offers a direct submission option via a machine-to-machine Application Programming Interface (API).

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.

The information collected from establishments under 1904.41 overlaps with what is collected by the BLS Survey of Occupational Injuries and Illnesses (1220-0045). However, BLS also collects data from OSHA Form 300A and Form 301 for many employers not subject to 1904.41. 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

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access to the information collected by the BLS at the establishment level, which the Agency needs for inspection targeting purposes. However, OSHA is not prohibited from providing BLS complete access to the information OSHA collects. OSHA has provided the BLS with access to all of the data collected under these provisions.

The BLS has modified their collection to allow respondents that have already provided their Form 300A data to OSHA to provide their OSHA identification number (OSHA ID) to import to BLS the data that they have submitted to the OSHA ITA in that same year. If BLS can successfully match establishment information with information reported to OSHA, data that have been reported to the OSHA ITA will be automatically imported into the SOII Internet Data Collection Facility (IDCF). Imported data are taken from the OSHA 300A form, "Summary of Work-Related Injuries and Illnesses." Additional information may need to be entered manually to complete the SOII. This same model may be used for the proposed additional information required by this NPRM.

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 8 million establishments covered by OSHA and the State Plans, almost 7 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 requirement to provide Form 300A data under 1904.41 are limited to establishments with 20 or more employees in a subset of industries covered by the recordkeeping regulation. The proposed requirement to provide Forms 300 and 301 data are further limited to establishments with 100 or more employees in designated industries. 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.

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**
- **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).

• This information collection is 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

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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.

In accordance with 5 CFR 1320.11, OSHA is submitting an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for the proposed information collection requirements associated with the Improve Tracking Workplace Injury and Illness NRPM. Under the PRA, a federal agency cannot conduct or sponsor a collection of information unless OMB approves it and the agency displays a currently valid OMB control number. 44 U.S.C. 3507. The agency is not revising the existing paperwork package for Recordkeeping and Reporting Occupational Injuries and Illnesses, OMB Control Number 1218-0176, but rather requesting a new number for the provisions being added or modified. The Agency will be requesting a new OMB control number for this ICR.

In addition, Docket exhibit OSHA-2021-0006-0004 shows examples of user interfaces for the current Injury Tracking Application (ITA) reporting system and an expanded interface to collect case-specific data. OSHA currently expects that the user interfaces for the electronic reporting system proposed by this rule would be similar to these user interfaces. Screen shots of this interface can also be viewed on OSHA's website at http://www.osha.gov/recordkeeping/proposed_data_form.html. OSHA invites public comment on these user interfaces, including suggestions on any interface features that would minimize the burden of reporting the required data.

As noted in Section V of the proposed rule, "OMB Review Under the Paperwork Reduction Act of 1995," members of the public who wish to comment on this ICR must send their written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, OSHA (RIN-1218 –AD40), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-6929/Fax: 202-395-6881 (these are not toll-free numbers), email: OIRA_submission@omb.eop.gov. Please limit the comments to only the proposed changed provisions of the recordkeeping rule (i.e., proposed § 1904.41

OSHA encourages commenters also to submit their comments on these paperwork requirements to the rulemaking docket (Docket Number: OSHA-2021-0006), along with their comments on

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other parts of the proposed rule. Comments submitted in response to this notice are public records; therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth. These comments will also become part of the rulemaking record and will be available for public inspection and copying in the OSHA Docket Office and at <http://www.regulations.gov>. The Agency will respond to any comments received in response to this notice.

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).

In the proposed rule, OSHA proposes to exclude the following data elements from its collection of Form 300 and 301 data: 1) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B). 2) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

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.

The NPRM proposes: certain industries electronically submit information from OSHA Forms 300, 301, and 300A to OSHA; updates the classification system used to determine the list of industries covered by the electronic submission requirement; and, removes the current requirement for establishments with 250 or more employees, not in a designated industry, to electronically submit information from their Form 300A to OSHA on an annual basis. There are no questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and

other matters that are commonly considered private in these proposed provisions.

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.**

RESPONDENT BURDEN-HOUR AND COST BURDEN DETERMINATIONS

The burden hours and cost determinations are based on the preliminary economic analysis from the Proposed Rule, Improve Tracking Workplace Injuries and Illnesses Standard.

Wage Rates

OSHA used June 2021 data from the BLS National Compensation Survey, reporting a mean fringe benefit factor of 1.4535 for civilian workers in general.¹ OSHA then multiplied the mean hourly wage (\$37.55) by the mean fringe benefit factor (1.4535) to obtain an estimated total compensation (wages and benefits) for Occupational Health and Safety Specialists of \$54.58 per hour ($[\$37.55 \text{ per hour}] \times 1.4535$). OSHA next applied a 17% overhead rate to the base wage ($[\$37.55 \text{ per hour}] \times [0.17]$), totaling \$6.38.² The \$6.38 was added to the total compensation (\$54.58) yielding a fully loaded wage rate of \$60.96 $[\$54.58 + \$6.38]$.³

Table 1 – Loaded Wage Used in Analysis, including Overhead Cost¹

Occupation	Occupational	Mean	Fringe	Overhead	Loaded
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¹ Fringe benefit factor calculated as $[1/(1-0.312)]$, where 0.312 is the percent of the average total benefits of civilian workers in all industries, as reported on Table 2 of the BLS’s ECEC report, June 2021: <https://www.bls.gov/news.release/ecec.t02.htm>

² 17 percent is OSHA’s standard estimate for the overhead cost incurred by the average employer.

³ See docket exhibit OSHA-2021-0006-[comment number] for a spreadsheet with the full calculations.

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Description	Code	Hourly Wage	Benefit		Wage Rate
Occupational Health and Safety Specialists	19-5011 ²	\$37.55	1.4535	17%	\$60.96

1. Source: OSHA, based on BLS (May 2020) and BLS (June 17, 2021)

2. OMB issued revised SOC codes in 2017, changing SOC 29-9011 to SOC 19-5011. The 2010 SOC to the 2018 SOC crosswalk can be downloaded here (accessed July 2021):

https://www.bls.gov/soc/2018/crosswalks_used_by_agencies.htm.

The burden hours and cost determinations for recordkeeping and reporting are as follows:

The recordkeeping burden imposed by the proposed requirements will vary greatly from establishment to establishment, depending upon the number of recordable injuries and illnesses that have occurred at the establishment. For example, an establishment may have 20 recordable cases in one year requiring 20 entries in the OSHA Injury Tracking Application (ITA), while another establishment may have had zero recordable cases for the year and thus have no cases to enter. The burden will also vary greatly depending on the method used to submit the required data. Data entry using the web forms will generally require more time than submission by batch file or API.

Case estimates for the proposed reporting requirements are based on 2019 Injury Tracking Application data.

OSHA used the following assumptions to develop the burden estimates:

(A) The proposed rule rescinds the requirement for establishments with 250 or more employees in industries not listed on Appendix A but covered by the recordkeeping rule to submit data from their 300A forms. This applies to 2,661 establishments and results in a decrease of 444 burden hours.

(B) Proposed 1904.41(a)(2) requires establishments with 100 or more employees in certain high-risk industries covered by Appendix B to electronically send their OSHA 300 and 301 Forms, in addition to 300A data to OSHA once a year. Each establishment subject to this provision will require 10 minutes (10 min/60 min) to familiarize themselves with the reporting website. OSHA assumes half of the covered establishments will require 10 minutes to submit a batch file of the required form 300/301 information. The other half will submit the required information by data entry in web forms and will require 10 minutes to submit the data for each recordable injury or illness.

Table 2 – Summary of Proposed Estimated Burden Hours and Cost – NPRM

Collections of Information	Number of Cases	Time per Case	Total Burden Hours	Loaded Wage Rate	Cost
1904.41(a)(1) and (2) -	(2,661)	10/60	(444)	\$60.96	(27,036)

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Table 2 – Summary of Proposed Estimated Burden Hours and Cost – NPRM					
Collections of Information	Number of Cases	Time per Case	Total Burden Hours	Loaded Wage Rate	Cost
electronic submission of OSHA Form 300A data					
Proposed 1904.41(a)(2) - Familiarization of new requirements and website	48,919	10/60	8,153	\$60.96	497,017
Proposed 1904.41(a)(2) - electronic submission of OSHA Form 300 and 301 data by batch file	24,460	10/60	4,077	\$60.96	248,514
Proposed 1904.41(a)(2) - electronic submission of OSHA Form 300 and 301 data by data entry	359,158	10/60	59,860	\$60.96	3,649,046
Totals	429,876		71,646		\$4,367,541

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 \$1,520,365. This estimated cost is comprised of: (1) the administration of the data collection under 1904.41 at a unit cost estimate of 28 cents per transaction for an estimated 429,876 transactions (\$120,365); (2) annual help desk costs of \$200,000; and (3) the systems requirements for collecting the data under the proposed rulemaking (\$1,200,000).

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

The agency is proposing a new information collection request for the provisions contained in the Proposed Rule, *Improve Tracking of Workplace Injuries and Illnesses*. This proposal would incur a burden of 71,646 hours. As a result, this proposal would be rescinding 444 hours of the reporting requirements to electronically submit information from their Form 300A to OSHA on

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an annual basis for establishments with 250 or more employees in industries not on Appendix A of Subpart E, adding 8,153 hours for establishments to familiarize themselves with the new requirements and data collection website, and adding 63,937 hours to now submit the required data.

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 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.

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

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