

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

OMB Control Number: 1218-0279

Expiration Date: To Be Determined

### **Note to Reviewer**

OSHA implemented a final rule, *Improve Tracking of Workplace Injuries and Illnesses* (RIN 1218-AD40), which contains new information collection requirements that are subject to OMB approval under a new OMB Control Number 1218-0279.

The agency is revising 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 and 301 Forms. These new requirements are contained under 1904.41 (see attachment 1). The final rule does not add to or change any employer's obligation to complete and retain the injury and illness records. The final rule also does not add to or change the recording criteria or definitions for these records. The final rule only modifies employers' obligations to transmit information from these records to OSHA.

The agency plans to combine the collection of information requirements for *Improve Tracking of Workplace Injuries and Illnesses*, OMB Control Number 1218-0279 with the currently OMB approved paperwork package for [\*Recordkeeping and Reporting Occupational Injuries and Illnesses \(29 CFR Part 1904\)\*](#), OMB Control Number 1218-0176 once the final rule for Improve Tracking of Workplace Injuries and Illnesses is published.

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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 1218-0279  
(May 2023)**

**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 used 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 final rule is revising the requirements for establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year.

The requirement provides systematic access for OSHA to the establishment-specific, case-specific injury and illness information that these establishments are already required to collect. Access to this data allows 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 will 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.

Also, the rule requires 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 the information collected by the BLS Survey of Occupational Injuries and Illnesses (1220-0045). However, BLS also collects data from the OSHA Forms from many establishments 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 or 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 BLS at the establishment level, which the agency needs for inspection targeting and outreach purposes. However, OSHA is not prohibited from providing BLS

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complete access to the injury and illness recordkeeping information OSHA collects. In the past, OSHA has provided the BLS with access to all of the recordkeeping data collected by OSHA under previous collection requirements.

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. This same model could be used for the additional information required by this final rule. Additional information may need to be entered manually to complete the Survey of Occupational Injuries and Illnesses (SOII).

**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 partially exempt from OSHA injury and illness recordkeeping requirements, unless pre-notified in writing that they must participate in the BLS Annual SOII, 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 new requirement to submit Forms 300 and 301 data is limited to establishments with 100 or more employees in designated industries, all of which are already required to submit Form 300A data to OSHA. 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.**

If OSHA were unable to conduct its annual collections of information from the Part 1904 records, certain agency programs that use the data, such as OSHA's inspection and outreach programs, would be irreparably harmed. In short, OSHA's ability to optimize the use of its scarce resources would be severely diminished. For example, with the OSHA Forms 300 and 301 data, having access to case-specific data will also allow OSHA to determine whether workers in particular demographics are being sickened or injured disproportionately. These may be younger or older workers, temporary workers, or workers new to a particular assignment. If OSHA has this information, it will be able to develop strategies to address the particular demographic factors that lead to these disproportionate outcomes. The data will also allow the agency to identify trends in the types of injuries and illnesses that are occurring, and the agency can identify and assess emerging hazards. Identifying such patterns and trends can also help the agency to engage in longer-term strategic activities, such as through the development of standards, which can help make OSHA a more effective agency overall, and in doing so, make all workers safer. Furthermore, other interested parties would lose a valuable resource — an up-

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to-date “snapshot” of the safety and health at specific establishments — if the Part 1904 records were submitted to OSHA 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 Part 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 access requirements outlined in 29 CFR 1904.35 and 1904.40. Records obtained by OSHA or other government representatives under 29 CFR 1904.40 are only disclosed in accordance with applicable Federal law, including provisions of 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). OSHA intends to post certain information from the collected data on a public website after identifying and removing information that could reasonably be expected to identify individuals directly. The posting of such data would be conducted in accordance with applicable federal law, including the provisions of FOIA. 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 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.**

On March 30, 2022, OSHA published a notice of proposed rulemaking (NPRM) (87 FR 18528) to amend its occupational injury and illness recordkeeping regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 once a year. OSHA prepared and submitted an Information Collection Request (ICR) to OMB, proposing to revise certain collection requirements currently contained in the package, as required under 44 U.S.C. 3507(d). The proposed rule invited the public to submit comments to OMB, in addition to OSHA, on the proposed collections of information. On May 25, 2022, OSHA published a second federal register notice (87 FR 31793), extending the comment period to allow the public an additional 30 days to comment on the proposed rule and the information collection requirements contained in the proposed rule. OSHA received 87 public comments.

In accordance with the PRA (44 U.S.C. 3506(c)(2)), OSHA solicited public comments on the collection of information contained in the 2022 proposed rule. OSHA encouraged commenters to submit their comments on the information collection requirements contained in the proposed rule under docket number OSHA-2021-0006, along with their comments on other parts of the proposed rule. In addition to generally soliciting comments on the collection of information requirements, the proposed rule indicated that OSHA and OMB were particularly interested in comments that addressed the following:

- Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the collection of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the compliance burden on employers, for example, by using automated or other technological techniques for collecting and transmitting information.

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On May 5, 2022, OMB issued a Notice of Action (NOA) assigning the proposal's ICR a new OMB Control Number, 1218-0279, to be used in future ICR submissions. OMB noted that this action had no effect on any current approvals. OMB also noted that the NOA is not an approval to conduct or sponsor the information collection contained in the revision proposal. Finally, OMB requested that, “[p]rior to publication of the final rule, [OSHA] should provide a summary of any comments related to the information collection and their response, including any changes made to the ICR as a result of comments. In addition, the agency must enter the correct burden estimates.” OSHA did not receive any comments in response to the proposed ICR submitted to OMB for review. However, the agency did receive 87 comments related to the proposed rule. A copy of the proposed ICR is available to the public at <http://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1218-0279>.

Attachment A provides a discussion of the significant public comments related to the final rule's information collection requirements and the agency response.

Attachment B lists the comments sent in response to the proposed rule.

**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 Part 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 access requirements in 29 CFR Part 1904.35 and 1904.40. Records obtained by OSHA or other government representatives under 29 CFR 1904.40 are only disclosed by the government in accordance with applicable Federal law, including the provisions of 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 final rule, OSHA excludes 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).

Additionally, OSHA intends to post certain information from the collected data on its public website after identifying and removing information that could reasonably be expected to identify

individuals directly. The publication of such data would be conducted in accordance with applicable federal law, including provisions of the FOIA.

**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.**

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 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 final economic analysis of the Improve Tracking Workplace Injuries and Illnesses Standard, Final Rule.

#### **Wage Rates**

OSHA used September 2022 data from the BLS National Compensation Survey, reporting a mean fringe benefit factor of 1.4493 for civilian workers in general.<sup>1</sup> OSHA then multiplied the

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<sup>1</sup> Fringe benefit factor calculated as  $[1/(1-0.310)]$ , where 0.310 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, September 2022; released



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mean hourly wage (\$37.86) for occupational safety and health specialists by the mean fringe benefit factor (1.4493) to obtain an estimated total compensation (wages and benefits) for Occupational Health and Safety Specialists of \$54.87 per hour ( $[\$37.86 \text{ per hour}] \times 1.4493$ ). OSHA next applied a 17% overhead rate to the base wage ( $[\$37.86 \text{ per hour}] \times [0.17]$ ), totaling \$6.44.<sup>2</sup> The \$6.44 was added to the total compensation (\$54.87) yielding a fully loaded wage rate of \$61.31  $[\$54.87 + \$6.44]$ .<sup>3</sup> OSHA used the same process to calculate a fully loaded wage rate for software developers.

**Table 1 – Loaded Wage Used in Analysis, including Overhead Cost<sup>1</sup>**

Occupation Description	Occupational Code	Mean Hourly Wage	Fringe Benefit	Overhead	Loaded Wage Rate
Occupational Health and Safety Specialists	19-5011 <sup>2</sup>	\$37.86	1.4493	17%	\$61.31
Software Developers	15-1252	\$58.17	1.4493	17%	\$94.19

1. Source: OSHA, based on BLS (May 2021) and BLS (March 31, 2022)

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 February 20, 2023): [https://www.bls.gov/soc/2018/crosswalks\\_used\\_by\\_agencies.htm](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 electronic submission 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 reporting requirements are based on 2019 Injury Tracking Application data.

OSHA used the following assumptions to develop the burden estimates:

Paragraph 1904.41(a)(2) of the final rule 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 the already-required 300A data, to OSHA once a year. Each establishment subject to this provision will require 10 minutes (10/60 hour) to familiarize themselves with the reporting website. OSHA assumes half of the covered establishments will

December 15, 2022: <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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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 15 minutes to submit the data for each recordable injury or illness. Also, OSHA is taking a one-time cost for employers to upgrade their customized software computer systems unique to the rule. Employers will have to pay a software developer \$94.19 per hour to upgrade their customize software system. This process will take 20 hours to upgrade the software for each system.

**Table 2 – Summary of Estimated Annualized Burden Hours and Cost – Final Rule**

<b>Collections of Information</b>	<b>Basis</b>	<b>Number of Responses</b>	<b>Time per Response (In Hours)</b>	<b>Total Burden Hours</b>	<b>Loaded Wage Rate</b>	<b>Total Burden Cost</b>
Paragraph 1904.41(a)(2) - Familiarization of new requirements and website	One-time**	52,092	10/60	8,682	\$61.31	\$532,293
Paragraph 1904.41(a)(2) - electronic submission of OSHA Form 300 and 301 data by batch file	Annual	24,668*	10/60	4,111	\$61.31	\$252,045
Paragraph 1904.41(a)(2) - electronic submission of OSHA Form 300 and 301 data by data entry	Annual	433,759	15/60	108,440	\$61.31	\$6,648,456
Paragraph 1904.41(a)(2) – Software Upgrade for Multiple Establishments Firms	One-time	456	20	9,120	\$94.19	\$859,042
<b>Totals</b>		<b>510,975</b>		<b>130,353</b>		<b>\$8,291,329</b>
<b>One Time Total</b>		<b>52,548</b>		<b>17,802</b>		<b>\$1,391,299</b>

<b>Collections of Information</b>	<b>Basis</b>	<b>Number of Responses</b>	<b>Time per Response (In Hours)</b>	<b>Total Burden Hours</b>	<b>Loaded Wage Rate</b>	<b>Total Burden Cost</b>
<b>Annual Total</b>		458,427		112,551		\$6,900,030
<b>Total Annualized over 3 years<sup>4</sup></b>		475,943		118,485		\$7,364,279

\*An estimated 24,668 batch files submit 332,498 reportable cases a year.

\*\*After the first time, this one-time burden will be taken only for new companies.

**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 annual cost to the government of approximately \$782,845. 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 458,427 transactions \$128,360; (2) annual help desk costs of \$204,485; (3) annual contractor support of \$50,000; and (4) the systems requirements for collecting the data under the final rule \$400,000. See Table 3.

**Table 3 – Cost to the Government**

<b>Type of Cost</b>	<b>Transactions</b>	<b>Unit Cost</b>	<b>Total</b>
Data Collection	458,427 submissions	\$0.28	\$128,360
Contractor Support	Annually	\$50,000	\$50,000
Help Desk (IT Specialist)	2,080 hours	\$98.31	\$204,485
Software Development and Design	One time cost	\$1,200,000/3yrs	\$400,000
<b>Total</b>			<b>\$782,845</b>

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

<sup>4</sup> The total annualized burden over three years is calculated by taking the one-time burden and dividing it by three then adding that number to the annual burden.

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OSHA published a final rule, *Improve Tracking of Workplace Injuries and Illnesses* which contains collection of information requirements subject to OMB review. The agency is requesting OMB approval of 118,485 annualized burden hours over a period of three years for these collection of information requirements contained in this final rule under OMB Control Number 1218-0279. The total number of annualized responses is 475,943. Also, there is a cost to the government of \$782,845 to process these forms annually.

**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.**

OSHA intends to tabulate and publish some of the information collected from the 300 and 301 forms on a public website after removing any submitted information that could reasonably be expected to identify individuals directly. OSHA generally plans to publish the data on an annual basis. OSHA does not anticipate using complex analytical techniques.

**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.