

VOSH PROGRAM DIRECTIVE: 12-152F

ISSUED: 01 September 2018

SUBJECT **Occupational Injury and Illness Recording and Reporting Requirements, §§1904.0 through 1904.46; and Amendments**

Purpose

CHANGE X (2018): This change reflects a joint Congressional resolution of disapproval, signed by the President, that nullifies OSHA's recordkeeping final rule entitled, Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness (*see Change VIII below*) and restores the pre-December 16, 2016 final rule.

CHANGE IX (2017): This change transmits to field personnel a delay which only impacts Form 300A submission of data to OSHA for calendar year 2016. This action delays the start-up of that electronic submission of Form 300A data for which capability was not made available by federal OSHA in a timely fashion until August 2017 for use by OSHA itself or for VOSH. It became effective for federal OSHA on 15 December 2017. To accommodate all required Virginia Administrative Process Act requirements for such action, VOSH's proposed effective date is 15 February 2018.

CHANGE VIII (2016): This change transmits to field personnel various amendments to OSHA's recordkeeping regulations clarifying that the duty to make and maintain accurate records of work-related injuries and illnesses is an ongoing obligation.

CHANGE VII (2016): This change transmits to field personnel improved tracking of workplace injuries and illnesses. To assure completeness and accuracy of injury and illness data collected by employers and reported to OSHA, OSHA has issued a final rule to modernize injury and illness data collection to better inform workers, employers, the public, and OSHA about workplace hazards. Analysis of this data will enable OSHA to use its enforcement and compliance assistance resources more efficiently.

CHANGE VI (2016): Transmits revised workplace injury and illness reporting requirements that duplicate the federal 24 hour period for notification to VOSH of an inpatient hospitalization, amputation, or loss of an eye.

CHANGE V (2015): Transmits revised workplace injury and illness reporting requirements and introduces a new industry classification system to determine whether employers with 11 or more employees must maintain injury and illness records.

CHANGE IV (2004): Deleted the “musculoskeletal disorder” (MSD) entry on the OSHA 300 Log due to OSHA determination of no justification for a separate MSD column on the 300 Log for a work-related MSD.

CHANGE III (2004): Incorporates the delayed federal implementation of §§1904.10, 1904.12 and the second sentence of §1904.29(b)(7)(vi) until January 1, 2004 due to proposed final rule to resolve the MSD definition.

CHANGE II (2003): Transmits revised hearing loss recording criteria in §1904.10(a) and 1904.10(b)(1)-(7).

CHANGE I (2001): Transmits the revised federal final rule for Occupational Injury and Illness Recording and Reporting Requirements and the repeal of Accident Reports, Occupational Injury and Illness Records and the Annual Survey, 16 VAC 25-60-50 through 16 VAC 25-60-70, respectively, in the VOSH ARM.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

Scope

This directive applies to all VOSH personnel.

References

- CHANGE X:** 82 FR 20548 (May 3, 2017)
- CHANGE IX:** 82 FR 55761 (November 24, 2017)
- CHANGE VIII:** 81 FR 91792 (December 19, 2016)
- CHANGE VII:** 81 FR 29623 (May 12, 2016); & 81 FR 31854 (May 20, 2016)
- CHANGE VI:** Chapter 336, 2016 Virginia Acts of Assembly.
- CHANGE V:** 79 FR 56129 (Sept. 18, 2014); & Chapter 270, 2015 Virginia Acts of Assembly.
- CHANGE IV:** 68 FR 38601 (June 30, 2003); OSHA Memorandum #01-03d, July 18, 2003.
- CHANGE III:** 67 FR 77165 (Dec. 17, 2002); OSHA Memorandum #01-03c, Jan. 23, 2003.
- CHANGE II:** 67 FR 44037 (July 1, 2002); OSHA Memorandum 01-03b, July 8, 2002.
- CHANGE I:** 66 FR 5915 (Jan. 19, 2001); OSHA Memorandum 01-03, July 9, 2001; 66 FR 52031 (Oct. 12, 2001); OSHA Memorandum 01-03a, Nov. 13, 2001.

Cancellation

VOSH Program Directive 12-152E (December 1, 2016)

Action

Directors and Managers shall ensure that field personnel understand and comply with the standard included in this directive.

Effective Dates

CHANGE X: September 15, 2018

CHANGE IX: February 15, 2018

CHANGE VIII: May 15, 2017

CHANGE VII: December 1, 2016

CHANGE VI: December 1, 2016

CHANGE V: September 15, 2015

CHANGE IV: January 15, 2004

CHANGE IV: January 15, 2004

CHANGE III: January 1, 2004

CHANGE II: March 1, 2003

CHANGE I:

- January 1, 2003: §§1904.10 and 1904.12;
- January 1, 2002: §§1904.0 through 1904.9, 1904.11, &1904.13 through 1904.46; and
- December 31, 2001: Repeal of 16 VAC 25-60-50 through 16 VAC 25-60-70

Expiration Date

Not Applicable – remains in effect until cancelled or superseded.

C. Ray Davenport

Commissioner

Distribution: Commissioner of Labor and Industry
Assistant Commissioner
VOSH Directors and Managers
Legal Support and OIS Support Staffs

Consultation Services Director
VOSH Compliance and Cooperative
OSHA Region III and Norfolk Area Offices

I. **Background and Summary.**

CHANGE X: Under the Congressional Review Act, Congress passed and the President signed Public Law 115-21, a resolution of disapproval of OSHA’s final rule entitled, “Clarification of Employer’s Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness,” which was informally referred to as the “Volks” rule. The “Volks” rule affirmed longstanding OSHA policy by putting into regulation recordkeeping requirements stating that employers had a continuing obligation to maintain accurate injury and illness records and effectively gave OSHA the ability to issue citations to employers for failing to record work-related injuries and illnesses during the five-year retention period, normally OSHA has a six-month statute of limitations to issue violations.

To that end, the most recent amendments generally restored the affected recordkeeping regulations to the pre-clarification rule, i.e., prior to the December 19, 2016 final rule, effective nationally on January 18, 2017, and in Virginia on May 15, 2017; and removed any references to an employer’s continuing obligation to make and maintain an accurate record of each recordable injury and illness.

As a result of the Congressional resolution of disapproval of OSHA’s recordkeeping clarification, OSHA’s revisions are as follows:

a) **§1904.0. Purpose.**

Federal OSHA removed language, appearing in the December 19, 2016 final rule, concerning an employer’s ongoing obligation to make and maintain an accurate record of each and every recordable fatality, injury, and illness continuing throughout the entire record retention period.

b) **§1904.4. Recording criteria.**

Federal OSHA removed the December 19, 2016 final rule language, concerning an employer’s ongoing obligation to make and maintain an accurate record of each and every recordable fatality, injury, and illness continuing throughout the entire record retention period.

c) **§1904.29. Forms.**

Federal OSHA removed the December 19, 2016 final rule language, concerning failure to record within seven days not extinguishing an employer’s continuing obligation to make a record of the injury or illness and to maintain accurate records of all recordable injuries and illnesses throughout the entire record retention period.

d) **1904.32. Annual Summary.**

The heading of this section has been revised from “Year-end review and annual summary” to the earlier pre-December 19, 2016 heading, “Annual summary”. In subsection (a), OSHA deleted language referencing all recordable injuries and illnesses during that year; and subsection (b)(1)- *“How extensively do I have to review the OSHA 300 Log at the end of the year?”*- the following language was removed – “all recordable injuries and illnesses that occurred during the year, and make any additions or corrections necessary to ensure its

accuracy”.

e) 1904.33. Retention and updating.

The heading of this section was changed from “Retention and maintenance of accurate records” back to the earlier pre-December 19, 2016 heading, “Retention and updating.”

The question in paragraph (b)(1), Implementation, was revised from “Other than the obligation identified in §1904.32, do I have further recording duties with respect to the OSHA 300 Logs and 301 Incident Reports during the five-year retention period?” to (1) “*Do I have to update the OSHA 300 Log during the five-year storage period?*” Unlike the most recent revisions, the December 19, 2016, final rule amendments required certain additions and corrections be made to the OSHA Log and Incident Reports during the five-year retention period. For example:

- (1) OSHA Logs had to contain entries for all recordable injuries and illnesses occurring during the calendar year to which it relates;
- (2) Each and every recordable injury and illness had to be recorded on an Incident Report; otherwise, the employer was under a continuing obligation to record the case on the Log during the five-year retention period; necessary additions and corrections to the OSHA Log must be made to accurately reflect any changes that had occurred in previously recorded injuries and illnesses; and
- (3) Incident Report required for each and every recordable injury and illness, although making additions or corrections to Incident Reports during the five-year retention period was not required.

However, the new rule did retain the requirement for employers to continuously update the OSHA 300 Log throughout the five year storage period:

Do I have to update the OSHA 300 Log during the five-year storage period? Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

Prior to the Volks II decision (discussed in Change VIII below), Virginia’s policy was identical to that of OSHA that an employer had a continuing obligation to maintain an accurate record of its injuries and illnesses. In addition, the Board previously adopted effective September 21, 2006 §16VAC25-60-260.A.2, in the VOSH Administrative Regulations, which provides:

2. An alleged violation is deemed to have "occurred" on the day it was initially created by commission or omission on the part of the creating employer, and every day thereafter that it remains in existence uncorrected.

The changes to the federal regulation, as result of the Congressional action, have no impact on Virginia's regulation at §16VAC25-60-260.A.2, which was in existence prior to the December 19, 2016, recordkeeping rule changes.

f) §1904.34. Change in business ownership

This amendment deleted the following language that was added in the December 19, 2016, changes to the standard: "The new owner is not responsible for recording and reporting work-related injuries and illnesses that occurred before the new owner took ownership of the establishment."

g) §1904.35. Employee involvement

In response to the question "(2) *Do I have to give my employees and their representatives access to the OSHA injury and illness records?*" The proposed change to paragraph (b)(2) would remove the word "accurate" before "OSHA injury and illness records". The sentence currently reads: "Yes. Your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records."

Additionally, in paragraph (b)(2)(iii), in response to the question: "*If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it?*" the word "accurate" preceding "OSHA 300 Log(s)" was deleted.

h) Subpart E – Reporting Fatality, Injury and Illness Information to the Government

The heading to Subpart E was changed from: "Reporting Accurate Fatality, Injury, and Illness Information to the Government" to "Subpart E – Reporting Fatality, Injury and Illness Information to the Government."

i) §1904.40. Providing records to government representatives

In subsection (a), Basic requirement. The term "accurate" was deleted preceding the word, "records". The phrase, which formerly read: "...You must provide accurate records, or copies thereof,..." , now reads: " ... you must provide copies of the records..."

On June 14, 2018, the Safety and Health Codes Board adopted federal OSHA's final rule, with an effective date of September 15, 2018.

CHANGE IX: Review of 2016 Recording and Reporting Requirement Changes to Part 1904.41

The revised federal 2016 final rule, approved by the Board at its 13 September 2016 meeting, made several changes to the existing recording and reporting requirements that requires a specific timeframe for certain employers to electronically submit the injury and illness information they are already required to keep under existing OSHA regulations:

- a) Establishments with 250 or more employees that are required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 – *Log of Work-Related Injuries and Illnesses*, 300A – *Summary of Work-Related Injuries and Illnesses*,

and 301 – *Injury and Illness Incident Report*.

- b) Establishments with 20 to 249 employees that are classified in certain industries with historically high rates of occupational injuries and illnesses must electronically submit annually information from OSHA Form 300A.
- c) Establishments with fewer than 20 employees at all times during the year do not have to routinely submit information electronically to OSHA. OSHA requires all employers who receive notification from OSHA to electronically submit the requested information from their injury and illness records to OSHA or OSHA’s designee.
- d) OSHA intends to post the data from these submissions on its secure, publicly accessible website at www.osha.gov. It will also remove any Personally Identifiable Information (PII) on the website before the data are released to the public.
- e) Other significant final rule changes included the addition of an Appendix A to Subpart E of Part 1904, Designated Industries for §1904.41(a)(2) Annual Electronic Submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by Establishments With 20 or More Employees but Fewer than 250 Employees in Designated Industries.
- f) For ensuing years, the annual submission date is July 1st.

On November 30, 2017, the Safety and Health Codes Board adopted federal OSHA’s final rule delaying the effective date of electronic filing, with an effective date of February 15, 2018.

CHANGE VIII: Federal OSHA amended its recordkeeping regulations to clarify that the duty to make and maintain accurate records of work-related injuries and illnesses is an ongoing obligation. The duty to record an injury or illness continues for as long as the employer must keep records of the recordable injury or illness. The duty does not expire just because the employer fails to create the necessary records when first required to do so.

To that end, OSHA revised the titles of some existing sections and subparts in Part 1904 and changed the text of some existing recordkeeping requirements. These amendments clarify the following:

- a) **OSHA 300 Log.** Employers must record every recordable injury or illness on the Log. This obligation continues through the five-year record retention-and-access period if employers do not create the record within seven days of when the employer learns of the injury or illness. During that five-year period, employers must update the OSHA 300 Log by adding cases not previously recorded and by noting changes to previously recorded cases.
- b) **OSHA 301 Incident Report.** Employers must prepare a Form 301 Incident Report for each recordable illness or injury. This obligation continues throughout the five-year retention-and-access period if employers do not prepare the report within seven days of when the employer learns of the injury or illness. Unlike with the OSHA 300 Log, employers are not required to update the Incident Report to show changes to the case that

occur after the form is initially prepared.

- c) ***Year-end records review; preparation certification; and posting of the Form 300A annual summary.*** These ancillary tasks are intended to be performed at particular times during each year. They are not continuing obligations.
- d) OSHA has a longstanding position that an employer's duty to record an injury or illness continues for the full duration of the record-retention-and-access period, i.e., for five years after the end of the calendar year in which the injury or illness becomes recordable. See *Section 8(c) of the OSH Act (29 U.S.C. 657(c))*. This means that if an employer still has an ongoing duty to record that case, the recording obligation does not expire simply because the employer failed to record the case when it was first required to do so.
- e) As long as an employer fails to comply with its ongoing duty to record an injury or illness and, consequently, with its obligation to maintain accurate records, there is an ongoing violation of OSHA recordkeeping requirements that continue to occur every day employees work at the site. See *Section 9(c) of the OSH Act (29 U.S.C. 657(c))*. Employers, therefore, can be cited for such recordkeeping violations for up to six months after the five-year retention period expires without running afoul of the OSH Act. (See also *§40.1-49.4 of the Code of Virginia and 16VAC25-60-260, A., Citation and Penalty*).
- f) The amendments in this final rule were adopted in response to the *Volks II* decision of the United States Court of Appeals for the District of Columbia Circuit (*AKM LLC v. Sec'y of Labor*, 675 F.3d 752 (D.C. Cir. 2012)). In that case, a majority held, without discussion of the Commission precedent to the contrary, that the Occupational Safety and Health Act does not permit OSHA to impose a continuing recordkeeping obligation on employers. A concurring opinion, filed in this case, disagreed with this reading of the statute, but found that the text of OSHA's recordkeeping regulations did not impose continuing recordkeeping duties. OSHA disagreed with the majority's reading of the law, but agreed that its recordkeeping regulations were not clear with respect to the continuing nature of employers' recordkeeping obligations.
- g) Because of the *Volks II* decision, OSHA decided to clarify employers' obligations under recordkeeping regulations and to elaborate on its understanding of the statutory basis for those obligations.

On February 16, 2017, the Safety and Health Codes Board adopted federal OSHA's Final Rule on the Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness, with an effective date of May 15, 2017.

CHANGE VII: OSHA regulations at Part 1904 still require employers with 11 or more employees in most industries to: keep records of work-related injuries and illnesses at their establishments; help these employers and their employees identify hazards; and fix problems and prevent additional injuries and illnesses. Employers covered by these rules must prepare the following forms for each case: OSHA Forms 300 – *Log of Work-Related Injuries and Illnesses*, 300A – *Summary of Work-Related Injuries and Illnesses*, and 301 – *Injury and Illness Incident*

Report. The injury and illness data entered on these three recordkeeping forms is obtained only through onsite inspections, which VOSH collects the data from the individual establishments being inspected, or by inclusion of an establishment in a survey pursuant to the previous Part 1904.41, *Annual OSHA Injury and Illness Survey of Ten or More Employers*.

A. Federal Register May 12, 2016 Change to Existing Recording and Reporting Requirements in Part 1904

This amendment made several changes to the existing recording and reporting requirements under Part 1904. It now requires certain employers to electronically submit the injury and illness information they are already required to keep under existing Part 1904 regulations:

1. Establishments with fewer than 20 employees at all times during the year do not have to routinely submit information electronically to OSHA. OSHA requires all employers who receive notification from OSHA to electronically submit the requested information from their injury and illness records to OSHA or OSHA's designee.
2. Establishments with 20 to 249 employees that are classified in certain industries with historically high rates of occupational injuries and illnesses must electronically submit annually information from OSHA Form 300A only.
3. Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 – *Log of Work-Related Injuries and Illnesses*, 300A – *Summary of Work-Related Injuries and Illnesses*, and 301 – *Injury and Illness Incident Report*.
4. OSHA intends to post the data from these submissions on its secure, publicly accessible website at www.osha.gov. Any personally Identifiable Information (PII) will be removed before the data are put on the website and released to the public.
5. Implementation Schedule - VOSH will match federal OSHA's compliance schedule and will comply with OSHA's phase-in of the implementation schedule of the new reporting requirements over two years and would use the same implementation dates. The key implementation dates are:
 - July 1, 2017 – Employers with 20-249 employees in designated, high-risk industries will be responsible for electronically submitting information from their 2016 OSHA 300A Forms. Also, employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from their 2016 OSHA 300A Forms.
 - July 1, 2018 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from their 2017 OSHA 300, 301, and 300A Forms.

- March 2, 2019 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from their OSHA 300, 301, and 300A Forms. Employers with 20-249 employees in designated industries will be responsible for electronically submitting information from their OSHA 300A Forms.

6. Employee Involvement - §1904.35

This action also amends the recordkeeping regulation to update requirements on how employers inform employees to report work-related injuries and illnesses to their employer. Discrimination or retaliation against an employee who reports a fatality, injury, or illness is a violation of §40.1-51.2:1 and §40.1-51.2:2 of the *Code of Virginia* as well as Section 11(c) of the federal OSH Act.

Under section 11(c), federal OSHA has no statutory authorization to act against an employer unless an employee files a complaint. However, now under §1904.35 (v)(1)(iv) of the amended regulation, VOSH, like OSHA, will now be able to cite an employer for taking adverse action against an employee for reporting an injury or illness, even if the employee did not file a complaint. Additionally, citations can result in orders requiring employers to abate violations, which may be a more efficient tool to correct employer policies and practices in general thereby affecting multiple workers, rather than action under §40.1-51.2:1 and §40.1-51.2:2 of the *Code of Virginia*, which is often employee-specific.

The amendments to §1904.35 contain three new provisions to promote complete and accurate reporting of work-related injuries and illnesses while also expanding OSHA's anti-retaliation protections:

- a. Paragraphs (a)(2) and (b)(1)(iii) of §1904.35 require employers to inform employees of their right to report work-related injuries and illnesses free from retaliation. The revised regulation strengthens paragraph (a) of §1904.35 by expanding the previous requirement for employers to inform employees how to report work-related injuries and illnesses so that the rule now includes a mandate to inform employees that they have a right to report work-related injuries and illnesses free from retaliation by their employer. This obligation may be met by posting submitting information from their 2017 OSHA 300, 301, and 300A Forms.
- b. March 2, 2019 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from OSHA 300, 301, and 300A Forms. Employers with 20-249 employees in designated industries will be responsible for electronically submitting information from their OSHA 300A Forms.
- c. Paragraph (b)(1)(iv) of §1904.35 incorporates explicit into Part 1904 the existing prohibition on retaliation against employees for reporting work-related injuries or illnesses consistent with the existing prohibition contained in section 11(c) of the OSHA Act. Three specific types of adverse employer actions that OSHA

examined included: disciplinary policies, automatic post-accident drug testing, and employee incentive programs.

7. Other Significant Changes to the Regulation

a. Employees' Rights - §1904.36 – Prohibition Against Discrimination

To ensure that the injury data on OSHA logs are accurate and complete, the amendment also promotes an employee's right to report injuries and illnesses without fear of retaliation, and clarifies that an employer must have a reasonable procedure for reporting work-related injuries that does not discourage employees from such reporting. This aspect of the regulatory change targets employer programs and policies such as mentioned in Change VII item A.6.c. While nominally promoting safety, these may have the effect of discouraging workers from reporting injuries and, in turn, leading to incomplete or inaccurate records of workplace hazards.

b. Addition of Appendix A to Subpart E of Part 1904

Appendix A was added to Subpart E of Part 1904, Designated Industries for §1904.41(a)(2) Annual Electronic Submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by Establishments With 20 or More Employees but Fewer than 250 Employees in Designated Industries.

B. Federal Register May 12, 2016 Correction to the May 12, 2016 Federal Register Amendment

On May 20, 2016, the *Federal Register* published a correction by federal OSHA to the Final Rule revising its Recording and Reporting Occupational Injuries and Illnesses Regulation. Paragraph (b)(2) of §1904.35, Employee Involvement, was inadvertently designated as “[Reserved]”. The correction reinserts the paragraph which deals with implementing the basic requirement of an employee and his representatives' involvement in the recordkeeping system.

On September 13, 2016, the Safety and Health Codes Board adopted federal OSHA's Final Rule to Improve Tracking of Workplace Injuries and Illnesses and its Correction, with an effective date of December 1, 2016.

CHANGE VI: As discussed in Change V above, the Board's amendment to this regulation in 2015 contained a bill drafting error that mistakenly required an eight (8) hour reporting period not just for fatalities, but for all other events as well, i.e., in-patient hospitalizations of just one (1) person, amputations, or loss of an eye. Again, prior action by the General Assembly was necessary to correct the 2015 error to the statute and allow for subsequent regulatory action by the Board. A second statutory change was successfully sought by the Department and adopted by the 2016 session of the General Assembly as *Chapter 336 of the Laws of 2016*, effective July 1, 2016 in order to allow the Board amend the regulation to comply with federal OSHA's requirement to report each in-patient hospitalization, amputation, and loss of an eye

within 24 hours from the time the event is reported to the employer. Fatalities still must be reported within 8 hours and brings the Board's Part 1904 requirements into complete conformity with the federal OSHA Part 1904 requirements.

On September 13, 2016, the Safety and Health Codes Board adopted correcting amendments to the Occupational Injury and Illness Recording and Reporting Requirements – Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye as a Result of Work-related Incidents to OSHA, 16VAC25-85-1904.39, with an effective date of December 1, 2016.

CHANGE V: On September 18, 2014, in 79 FR 56186 and 79 FR 56187, OSHA again amended the Occupational Injury and Illness Recording and Reporting Requirements to include the following:

- NAICS Update and Reporting Revisions - Non-Mandatory Appendix A to Subpart B of Part 1904 Regarding Partially Exempt Industries. Appendix A contains a list of industries that are partially exempt from requirements to keep records of work-related injuries and illnesses due to relatively low occupational injury and illness rates. The updated appendix is based on more recent injury and illness data and lists industry groups classified by the North American Industry Classification System (NAICS). Prior to this NAICS update, the appendix listed industries classified by Standard Industrial Classification (SIC). The affected establishments are only partially exempt from keeping these records because, while they are exempt from routine OSHA injury and illness recordkeeping requirements, the Bureau of Labor Statistics (BLS) may require any establishment to respond to its Survey of Occupational Injuries and Illnesses (SOII), and OSHA may require any establishment to respond to its annual injury and illness survey.
- In addition to the previously allowed reporting by telephone or in person to the VOSH Office that is nearest to the site of the incident, or using the central toll-free telephone number of either federal OSHA or the Virginia State Police, employers now have a third way to report such incidents by electronic submission using the fatality/injury/illness reporting application located on OSHA's public Web site at www.osha.gov.
- Section 1904.39(a)(2) of the revised federal final rule adds a specific requirement to report any in-patient hospitalization, amputation, or loss of an eye.
- The amended federal regulatory text now provides an explicit definition for "in-patient hospitalization" to be used, specified at §§1904.39(b)(9) and 1904.39(b)(10)). The final rule defines "in-patient hospitalization" as a formal admission to the in-patient service of a hospital or clinic for care or treatment. Employers do not have to report in-patient hospitalizations that involve only observation and/or diagnostic testing. [79 FR 56156];
- Section 1904.39(b)(11) of the revised federal final rule adds a specific definition of "amputation" as the traumatic loss of a limb or other external body part. An amputation includes a part, such as a limb or appendage that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached.

- It also clarified that if the employer does not immediately learn about a reportable event, i.e., fatality, in-patient hospitalization, amputation, or loss of an eye, the employer must make the report within the above stated timeframe starting from when the event is reported to the employer.

The vast majority of adoptions of other identical to federal OSHA standards for use by the VOSH Program allow for the use of Virginia Administrative Process Act (APA) Article 2 exemption which reduces the adoption time from the approximately 18 month duration for the full regulatory adoption process to becoming effective 30 days after publication in the Virginia Register. However, in this particular case, the changes enacted by regulation, i.e., to change injury reporting timeframe requirements, are also statutorily specified in the controlling statute for the regulation, §40.1-51.1 of the Code of Virginia. As a result, an amendment to the Code of Virginia was necessary prior to the adoption by the Board of this part of the regulatory change. The Department sought and achieved such a statutory change in *Chapter 270 of the Laws of 2015*, effective July 1, 2015. However, Chapter 270 contained a bill drafting error that mistakenly required an eight (8) hour reporting period not just for fatalities, but for all other reportable events as well, i.e., in-patient hospitalizations of just one (1) person, amputations, or loss of an eye.

On July 9, 2015, the Safety and Health Codes Board adopted federal OSHA's amendment to the revised recordkeeping final rule in §§1904.2 and 1904.39, with an effective date of September 15, 2015.

CHANGE IV: On June 30, 2003, in a continuing effort to address lingering recordkeeping issues, federal OSHA published in the *Federal Register* (66 FR 38601) its decision to delete the MSD requirement in §1904.12, and related provisions as unnecessary. On November 5, 2003, the Safety and Health Codes Board adopted federal OSHA's amendment to the revised recordkeeping final rule in §§1904.12 and 1904.29(b)(7)(vi), with an effective date of January 15, 2004.

CHANGE III: On July 1, 2002, federal OSHA issued a final rule amendment that revised the criteria for recording work-related hearing loss.

- It also sought public comments on a proposed one-year delay, beginning January 1, 2003 of §1904.10(b)(7), regarding the recording of MSDs on OSHA's injury and illness logs. Written comments were required to be submitted by August 30, 2002. After consideration of the views of interested parties, OSHA determined that the effective date of §§1904.12 and 1904.29(b)(7)(vi) should be delayed until January 1, 2004.
- On December 17, 2002 it issued a final rule delaying until January 1, 2004 the effective date of the MSD and hearing loss column requirements in §§1904.12 and 1904.29(b)(7)(vi), respectively, and the statement in §1904.29(b)(7)(vi) that MSDs are not considered privacy concern cases. (67 FR 77165-77170). However, it had not reached a decision on the need for an MSD column and other issues related to §1904.12 on which comments had been requested.

On June 13, 2003, the Safety and Health Codes Board adopted federal OSHA's delayed effective dates, with an effective date of January 1, 2004.

CHANGE III: On July 1, 2002, federal OSHA issued a final rule amendment that revised the criteria for recording work-related hearing loss.

- It also sought public comments on a proposed one-year delay, beginning January 1, 2003 of §1904.10(b)(7), regarding the recording of MSDs on OSHA's injury and illness logs. Written comments were required to be submitted by August 30, 2002. After consideration of the views of interested parties, OSHA determined that the effective date of §§1904.12 and 1904.29(b)(7)(vi) should be delayed until January 1, 2004.
- On December 17, 2002 it issued a final rule delaying until January 1, 2004 the effective date of the MSD and hearing loss column requirements in §§1904.12 and 1904.29(b)(7)(vi), respectively, and the statement in §1904.29(b)(7)(vi) that MSDs are not considered privacy concern cases. (67 FR 77165-77170). However, it had not reached a decision on the need for an MSD column and other issues related to §1904.12 on which comments had been requested.

On June 13, 2003, the Safety and Health Codes Board adopted federal OSHA's delayed effective dates with an effective date of January 1, 2004.

CHANGE II: On July 1, 2002, federal OSHA published in the *Federal Register* two regulatory actions relating to Occupational Injury and Illness Recording and Reporting Requirements. The first notice was a final rule revising the hearing loss recording provisions of the recordkeeping rule in §1904.10. A note was added delaying until further notice the applicability of paragraph (b)(7) which requires employers to check the hearing loss column on the Log for hearing loss cases meeting the revised recording criteria. (67 FR 44037-44048) In a second and separate action published in the same issue of the *Federal Register*, OSHA sought public comments on a proposed one-year delay, from January 1, 2003 until January 1, 2004, of §1904.10(b)(7), establishing new recording criteria for occupational hearing loss that captured Standard Threshold Shifts (STS) cases when the employee's overall hearing level exceeded 25dB from audiometric zero. (67 FR 44037-44048)

At its meeting on December 2, 2002, the Safety and Health Codes Board adopted federal OSHA's revised final rule covering the hearing loss recording provisions of §1904.10(a) and (b)(1)-(7), effective on March 1, 2003, and the delay of the effective date for §1904.10(b)(7) until further notice.

CHANGE I: On January 18, 2001, federal OSHA published the final rule on recording and reporting requirements ("recordkeeping"), with an effective date of January 1, 2002 (66 FR 5916). OSHA revised this final rule addressed 30 year old complicated recordkeeping requirements with cumbersome forms and limited technological assistance.

- On January 20, 2001, the new Bush Administration ordered a blanket 60-day freeze on federal regulations, including recordkeeping, that were adopted and published before

January 20, 2001 by the prior Clinton Administration, but had not yet taken effect. The purpose was to provide additional time to further review the efficacy and necessity of the regulations involved. Following the review, OSHA determined that all but a few of the provisions of the final recordkeeping rule should take effect as scheduled on January 1, 2002.

- On July 3, 2001, OSHA published a notice explaining that it was reconsidering the requirement in §1904.10 to record all cases involving an occupational hearing loss averaging 10 decibels (dB) or more. OSHA found that there were reasons to question the appropriateness of 10 dB as the recording criterion, and requested public comment on other approaches and criteria. OSHA also stated that it was reconsidering the §1904.12 requirements defining “musculoskeletal disorder” (MSD) and that employers check the MSD column on OSHA logs for cases involving an MSD. OSHA determined that it would be premature to implement a new definition of MSD while it was considering the issue in connection with a comprehensive ergonomics plan.
- On October 12, 2001, after considering the requested public comments, OSHA published a final rule, 66 FR 52031-52034, delaying the effective date of §§1904.10(a), 1904.12(a), and 1904.12(b) until January 1, 2003. Federal OSHA added a new paragraph (c) to §1904.10, which established a 25-dB recording criterion for hearing loss cases for calendar year 2002. Additionally, OSHA modified the regulatory note to paragraph (b)(7)(vi) of §1904.29 to delay the language referring to privacy case consideration for MSD cases.

At its meeting on October 18, 2001, the Safety and Health Codes Board adopted federal OSHA’s revised rule on recording and reporting occupational injuries and illnesses, §§1904.0 through 1904.9, 1904.11, and 1904.13 through 1904.46, with an effective date of January 1, 2002. The Board also delayed the effective dates, until January 1, 2003, for the following provisions: §§1904.10 (a) and (b), specifying criteria for cases involving occupational hearing loss; 1904.12, defining “musculoskeletal disorder” (MSD), and requiring employers to check the MSD column on the OSHA Log if an employee experiences a work-related MSD; as well as the second sentence of §1904.29(b)(7)(vi) covering forms, and stating that MSDs are not considered privacy concern cases.

With this revision, federal OSHA updated its recording and reporting rule, including the forms employers use to record the occupational injuries and illnesses. The list of exempted industries was updated. The regulations checklists and flowcharts will be used to provide easier interpretations of recordkeeping requirements.

Additionally, the Board repealed the following: 16VAC25-60-50, Accidents Reports; 16VAC25-60-60, Occupational Injury and Illness Records; and 16VAC25-60-70, Annual Survey. The adoption of federal OSHA’s Recording and Reporting Requirements once again allows these VOSH regulations to be identical to, and “as effective as,” those of federal OSHA.

Attachments:

CHANGE X: 82 FR 20548 (May 3, 2017) or refer to:
<https://www.osha.gov/sites/default/files/laws-regs/federalregister/2017-05-03.pdf>

CHANGE IX: 82 FR 55761 (November 24, 2017) or refer to:
<https://www.osha.gov/sites/default/files/laws-regs/federalregister/2017-11-24.pdf>

CHANGE VIII: 81 FR 91792 (December 19, 2016) or refer to:
https://www.osha.gov/FedReg_ osha_ pdf/FED20161219B.pdf

CHANGE VII: 81 FR 31854 (May 20, 2016) or refer to:
https://www.osha.gov/FedReg_ osha_ pdf/FED20160512.pdf

CHANGE VI: Chapter 336, 2016 Virginia Acts of Assembly.
79 FR 56129 (September 18, 2014):
https://www.osha.gov/FedReg_ osha_ pdf/FED20140918.pdf

CHANGE V: Please refer to 79 FR 56129 (September 18, 2014):
http://www.osha.gov/FedReg_ osha_ pdf/FED20140918.pdf

CHANGE IV: None. Please refer to 68 FR 38601 (June 30, 2003):
http://www.osha.gov/FedReg_ osha_ pdf/FED20030630.pdf

CHANGE III: None. Please refer to 67 FR 77165 (December 17, 2002):
http://www.osha.gov/FedReg_ osha_ pdf/FED20021217.pdf

CHANGE II: None. Please refer to 67 FR 44037 (July 1, 2002):
http://www.osha.gov/FedReg_ osha_ pdf/FED20020701.pdf

CHANGE I: None. Please refer to 66 FR 5915 (January 19, 2001):
http://www.osha.gov/FedReg_ osha_ pdf/FED20010119.pdf
and to 66 FR 52031 (October 12, 2001):
http://www.osha.gov/FedReg_ osha_ pdf/FED20011012.pdf

**Clarification of Employer's Continuing Obligation to Make and Maintain
an Accurate Record of Each Recordable Injury and Illness; Final Rule**

As Adopted by the
Safety and Health Codes Board

Date: June 14, 2018



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: September 15, 2018

- 16VAC25-85-1904.0, Purpose, §1904.0
- 16VAC25-85-1904.4 Recording Criteria, §1904.4
- 16VAC25-85-1904.29, Forms, §1904.29
- 16VAC25-85-1904.32, Annual Summary, §1904.32
- 16VAC25-85-1904.33, Retention and Updating, §1904.33
- 16VAC25-85-1904.34, Change in Business Ownership, §1904.34
- 16VAC25-85-1904.35, Employee Involvement, §1904.35
- 16VAC25-85-1904.40, Providing Records to Government Representatives, §1904.40

When the regulations, as set forth in the Final Rule for the Clarification of Employer’s Continuing Obligation To Make and Maintain an Accurate Record of Each Recordable Injury and Illness, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

May 3, 2017

September 15, 2018

or that the employee is eligible for workers' compensation or other benefits.

Subpart C—Recordkeeping Forms and Recording Criteria

■ 3. Revise the heading of subpart C to read as set forth above.

■ 4. In § 1904.4, remove the note to § 1904.4(a) and revise paragraph (a) introductory text to read as follows:

§ 1904.4 Recording criteria.

(a) *Basic requirement.* Each employer required by this part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

* * * * *

■ 5. Revise § 1904.29(b)(3) to read as follows:

§ 1904.29 Forms.

* * * * *

(b) * * *

(3) *How quickly must each injury or illness be recorded?* You must 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.

* * * * *

■ 6. Revise the heading and paragraphs (a) and (b)(1) of § 1904.32 to read as follows:

§ 1904.32 Annual summary.

(a) *Basic requirement.* At the end of each calendar year, you must:

(1) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;

(3) Certify the summary; and

(4) Post the annual summary

(b) * * *

(1) *How extensively do I have to review the OSHA 300 Log entries at the end of the year?* You must review the entries as extensively as necessary to make sure that they are complete and correct.

* * * * *

■ 7. Revise the heading and paragraph (b) of § 1904.33 to read as follows:

§ 1904.33 Retention and updating.

* * * * *

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

■ 2. Revise § 1904.0 to read as follows:

§ 1904.0 Purpose.

The purpose of this rule (part 1904) is to require employers to record and report work-related fatalities, injuries, and illnesses.

Note to § 1904.0: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated,

(b) *Implementation—(1) Do I have to update the OSHA 300 Log during the five-year storage period?* Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

(2) *Do I have to update the annual summary?* No, you are not required to update the annual summary, but you may do so if you wish.

(3) *Do I have to update the OSHA 301 Incident Reports?* No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish.

■ 8. Revise § 1904.34 to read as follows:

§ 1904.34 Change in business ownership.

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the part 1904 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by § 1904.33 of this part, but need not update or correct the records of the prior owner.

■ 9. Revise paragraphs (b)(2) introductory text and (b)(2)(iii) of § 1904.35 to read as follows:

§ 1904.35 Employee involvement.

* * * * *

(b) * * *

(2) *Do I have to give my employees and their representatives access to the OSHA injury and illness records?* Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

* * * * *

(iii) *If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it?* When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

* * * * *

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

■ 10. Revise the heading of subpart E to read as set forth above.

■ 11. Revise the heading and paragraph (a) of § 1904.40 to read as follows:

§ 1904.40 Providing records to government representatives.

(a) *Basic requirement.* When an authorized government representative asks for the records you keep under part 1904, you must provide copies of the records within four (4) business hours.

* * * * *

Signed at Washington, DC, on April 25, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017-08754 Filed 5-2-17; 8:45 am]

BILLING CODE 4510-26-P

**Delay to Improve Tracking of Workplace Injuries and Illnesses, § 1904.41;
Final Rule**

As Adopted by the
Safety and Health Codes Board

Date: 30 November 2017



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: 15 February 2018

16VAC85-1904.41, Electronic Submission of Injury and Illness Records to OSHA, §1904.41

When the regulations, as set forth in the Delay of Compliance Date in the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, §1904.41, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

15 December 2017

15 February 2018

ACTION: Final rule; delay of compliance date.

SUMMARY: This action delays until December 15, 2017, the initial submission deadline for calendar year 2016 data on Form 300A under the rule entitled Improve Tracking of Workplace Injuries and Illnesses. The original electronic submission deadline was July 1, 2017. This delay will allow affected entities sufficient time to familiarize themselves with the electronic reporting system, which was not made available until August 1, 2017.

DATES: This regulation is effective on November 24, 2017. The submission deadline for completed 2016 Form 300A data is delayed to December 15, 2017.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Frank Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email meilinger.francis2@dol.gov.

For general and technical information: Miriam Schoenbaum, OSHA, Office of Statistical Analysis, Room N-3507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1841; email: schoenbaum.miriam@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 12, 2016, the Occupational Safety and Health Administration (OSHA) published a final rule (81 FR 29624) with an effective date of January 1, 2017, for the final rule's electronic reporting requirements. Under these requirements, certain employers were required to electronically submit 2016 Form 300A data to OSHA by July 1, 2017.

On June 28, 2017, the Department proposed to delay the initial deadline for electronic submission of 2016 Form 300A data from July 1, 2017, to December 1, 2017, to provide the new administration the opportunity to review the new electronic reporting requirements prior to their implementation and allow affected entities sufficient time to familiarize themselves with the electronic reporting system, which was not made available until August 1, 2017 (82 FR 29261).

On August 14, 2017, the Occupational Safety and Health Administration (OSHA) received an alert from the United States Computer Emergency Readiness Team (US-CERT) in the Department of Homeland Security that indicated a potential compromise of

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. OSHA-2013-0023]

RIN 1218-AD16

Improve Tracking of Workplace Injuries and Illnesses: Delay of Compliance Date

AGENCY: Occupational Safety and Health Administration, Department of Labor.

user information for OSHA's Injury Tracking Application (ITA). The ITA was taken off-line as a precaution. A complete scan was conducted by the National Information Technology Center (NITC). The NITC confirmed that there was no breach of the data in the ITA and that no information in the ITA was compromised. Public access to the ITA was restored on August 25, 2017.

In establishing the effective date of this action, the Agency invokes the good cause exception in 5 U.S.C. 553(d)(3), which allows the action to be immediately effective for "good cause" rather than subject to the requirement in the Administrative Procedure Act (5 U.S.C. 553(d)) that a minimum of 30 days is required before a rule may become effective. The nature of this action, which is to delay the submission deadline for completed 2016 Form 300A data that could not have been complied with as of the submission date in the original rule, makes it unnecessary and impractical to delay the effectiveness of this action by 30 days.

In this preamble, OSHA references comments in Docket No. OSHA-2013-0023, the docket for this rulemaking. References to documents in this rulemaking are given as "Ex." followed by the document number. The docket is available at <http://www.regulations.gov>, the Federal eRulemaking Portal.

II. Summary and Explanation of the Final Rule

A. Comments Received on the Proposed Delay of Compliance Date

The June 28, 2017, Notice of Proposed Rulemaking (NPRM) proposed to delay the initial submission deadline for 2016 Form 300A data to December 1, 2017. In the NPRM, OSHA also announced its intent to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. This final rule only addresses comments specific to the delay of the July 1, 2017, compliance date. In the NPRM, OSHA described its intent to provide employers a four-month window to submit their Form 300A data between the launch of the ITA on August 1 and the proposed due date of December 1. In order to remain consistent with the intent to provide a four-month window, OSHA has added two weeks to the proposed compliance date of December 1, 2017, to compensate for the time employers were unable to access the ITA in August. With the launch of the electronic reporting system on August 1, and the revised deadline of December 15, employers will still have four months

(August, September, October, November, and part of December) to submit their data.

OSHA received 72 substantive comments on its proposal to delay the submission deadline for completed 2016 Form 300A data to December 1, 2017.

Many commenters supported the proposed delay. Several commenters commented that a delay was necessary because employers were not able to meet the July 1, 2017, deadline because OSHA's electronic data collection system was not expected to be operational until August 1, 2017 (Ex. 1842, 1858, 1860, 1864, 1868, 1874, 1876, 1885, 1888, 1889, 1890, 1891, 1894, 1902, 1908). For example, the National Federation of Independent Business (NFIB) commented that "NFIB strongly supports a delay until at least December 1, 2017. Small and independent businesses should not be required to comply with a rule when compliance is impossible" (Ex. 1842). OSHA agrees with these comments. The data collection system was not made available to the public until August 1, 2017. Because the data collection system was not available until after the initial July 1, 2017 deadline, it was impossible for employers to comply with that provision of the regulation.

Other commenters mentioned that a delay would give OSHA more time to assure that the data collection Web site functions smoothly when it does go live. The North American Die Casting Association (NADCA) commented that a delay would give OSHA more time to deal with potential glitches in the Web site (Ex. 1894). Joseph Xavier commented that a delay would also give OSHA more time to make sure that the Web site is easy to use (Ex. 1887). In response, OSHA notes that the Agency originally planned to launch the electronic reporting system at the end of February, which would have given employers four months (March, April, May, June) to submit their data before the original deadline of July 1. The new reporting deadline of December 15, 2017, maintains the four-month window (August, September, October, November, and part of December) for employers to submit the required data.

Several commenters supported the proposed delay on the grounds that it would be helpful to employers for various reasons. Many commenters stated that a delay would give employers more time to familiarize themselves with the electronic reporting system (Ex. 1858, 1876, 1885, 1888, 1889, 1890, 1891, 1892, 1894, 1899, 1902, 1906). For example, the Edison Electric Institute commented that "[e]lectronic submission of OSHA 300A

forms will require time for EEI members to become familiar with the electronic reporting system, determine whether any IT system or other changes will be necessary to submit OSHA 300A forms electronically, and train employees in how to use the system (Ex. 1899). As above, OSHA notes that employers will have the same amount of time between system launch date and deadline (*i.e.*, four months) as they would originally have had under the May 2016 final rule. Other commenters mentioned that a delay would give more time for establishments to be educated about the new requirements (Ex. 1877, 1891). OSHA agrees that delaying the deadline from July 1, 2017, to December 15, 2017, gives more time for establishments to be educated about the requirements of the final rule published in May 2016.

Many commenters also supported the proposed delay as a means to allow OSHA more time to reevaluate the May 2016 final rule (Ex. 1856, 1860, 1872, 1874, 1877, 1885, 1888, 1889, 1890, 1891, 1893, 1894, 1902, 1904, 1906, 1907, 1912). For example, the Precision Machined Products Association (PMPA) commented that a delay until December 1, 2017, would "allow the Administration an opportunity to review the new electronic reporting requirements prior to implementation" (Ex. 1902). Other commenters supported the proposed delay as a first step, but they more strongly supported an even longer delay. Several commenters commented that the proposed five-month delay did not provide OSHA enough time to reconsider the final rule as mentioned in the NPRM (Ex. 1842, 1886, 1898, 1904, 1911, 1912, 1913). For example, Associated Builders and Contractors, Inc. (ABC) commented that "ABC is concerned that the delay will not be sufficient to allow OSHA to complete its reconsideration of the numerous challenged aspects of the rule" (Ex. 1912). This final rule delays the compliance date to submit employers' 2016 Form 300A data because it was infeasible for employers to comply with the July 1, 2017 deadline. As stated in the proposal, OSHA intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. The separate rulemaking will afford OSHA the time necessary to give full reconsideration to substantive issues concerning the May 6, 2016, final rule.

Many commenters also indicated that the proposed five-month delay would be more burdensome for establishments than a longer delay. Some commenters commented that a five-month delay

would create confusion among the regulated community, given that the rule could change after the proposed December 1, 2017, submission deadline or potentially be subject to even more delays in implementation (Ex. 1877, 1904, 1912, 1913). Several commenters also stated that a five-month delay could cause establishments to waste resources in an effort to comply with a regulation that could change later (Ex. 1905, 1911, 1912, 1913). For example, the U.S. Chamber of Commerce (USCC) commented that “[m]erely delaying the submission of these reports suggests OSHA will activate the requirement on December 1. Employers will begin preparing to submit their forms months ahead of that date. If OSHA then concludes, through the comprehensive rulemaking, to rescind this requirement, then employers will have spent their resources for no purpose” (Ex. 1911). The USCC and the Coalition for Workplace Safety (CWS) further commented that the four-month period between when the data collection Web site goes live and the proposed submission deadline is not long enough to make sure that the digital recordkeeping systems currently in use would be compatible with OSHA’s Web site (Ex. 1911, 1913). The American Coating Association (ACA) raised an additional concern about enterprises with many establishments, commenting that “corporate headquarters submitting reports on behalf of establishments within its ownership would face difficulty in collecting and electronically submitting forms by the proposed December 1, 2017 deadline” (Ex. 1905).

In response, OSHA agrees with the comment that a longer compliance delay could help to prevent further delays in implementation. OSHA has determined that the additional two-week delay to December 15, 2017 will help the Agency avoid further delays by ensuring that its electronic reporting system functions properly. OSHA disagrees that a more substantial delay is needed. OSHA notes that the collection of 2016 Form 300A is currently underway. As indicated in the May 6, 2016, final rule, OSHA will use the data collected to more efficiently focus its outreach and enforcement resources towards establishments that are experiencing high rates of occupational injuries and illnesses. OSHA intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal. This final rule only delays the compliance date to submit employers’

2016 Form 300A data. In addition, employers were already required to complete, certify, and post the 2016 OSHA Form 300A by February 1, 2017, so OSHA does not expect employers to face difficulty collecting and electronically submitting the data from the 2016 OSHA Form 300A by December 15, 2017.

There were also many commenters who opposed the proposed delay of the initial submission deadline to December 1, 2017. Several commenters commented that a delay would result in a longer time before various groups (employers, employees, researchers, labor unions, etc.) could use the 2016 Form 300A injury and illness data to prevent future injuries and illnesses in the workplace (Ex. 1846, 1866, 1871, 1873, 1875, 1878, 1879, 1896, 1900, 1901, 1903, 1909, 1910). For example, Change to Win commented that the current final rule should be implemented as rapidly as possible to “aggressively reduce the nation’s unacceptable burden of workplace injury, illness, disability and death” (Ex. 1871). In a related concern, the American College of Occupational and Environmental Medicine commented that the rule should be enacted without delay because the injury and illness data could be used to help develop better health care policies and medical treatments for injured workers (Ex. 1880).

Other commenters commented that a delay would result in a longer time before employers would have incentives to create safer workplaces through the benchmarking of injury and illness rates (Ex. 1866, 1873, 1875, 1878, 1884, 1901). For example, Public Citizen commented that it did not support the proposed delay because the data collected under the final rule would motivate employers “to compare their safety records against other firms in their industry and set goals for improvement” (Ex. 1866).

Many commenters also opposed the proposed delay because it would result in a longer time before OSHA could use establishment-level injury and illness data to identify and target workplace hazards (Ex. 1866, 1871, 1873, 1875, 1878, 1879, 1884, 1896, 1900, 1901, 1903, 1909, 1910). For example, National Nurses United indicated that they were against the delay because “OSHA Form 300A data is vital in the effective targeting of OSHA enforcement and compliance assistance resources. OSHA uses this information to develop injury and illness prevention plans and to efficiently direct OSHA’s scarce resources to worksites that pose the most serious hazards for workers” (Ex.

1900). The Service Employees International Union expressed a related concern in its opposition to the delay, commenting that “workers and employers will not be able to enjoy the benefits of the regulation during the five month delay . . . [including] [i]mprovement in the quality of the information submitted to OSHA” (Ex. 1884). The Council of State and Territorial Epidemiologists and the International Brotherhood of Teamsters provided a similar comment (Ex. 1903, 1909).

In addition to the above concerns related to occupational health and safety, other commenters indicated that the delay was not necessary for employers. Several commenters commented that there was no need for a delay given that the final rule did not impose any new recordkeeping requirements on employers (Ex. 1866, 1869, 1873, 1878, 1879, 1900, 1901, 1910). Some commenters also stated that a delay was not necessary because employers have already known about the requirements of the final rule for an ample amount of time (Ex. 1869, 1879, 1896, 1903).

Other commenters opposed the delay by noting that OSHA has provided no rationale or justification for the delay (Ex. 1873, 1878, 1900, 1901, 1903, 1909). For example, the Utility Workers Union of America commented that “[i]n its proposal, OSHA provides no justification for the proposed delay from July to December of this year” (Ex. 1901). Other commenters also opposed the delay on the ground that the part of the final rule subject to delay is already in effect and must therefore be enforced (Ex. 1879, 1900). The National Employment Law Project further commented that such a “non-enforcement policy would be, in effect, an Administrative Stay of this part of the rule, in violation of the Administrative Procedure Act” (Ex. 1879). National Nurses United provided a similar comment (Ex. 1900).

In response to all of these comments, OSHA notes that compliance with the regulation was impossible, and OSHA must delay the initial submission deadline because the Agency did not make the electronic reporting system available before the July 1, 2017, submission deadline in the May 2016 final rule. OSHA agrees with commenters that the delay in the compliance date will cause an initial delay in the Agency’s ability to use the data for inspection and outreach purposes, but only on a temporary basis during this initial collection year. The Agency will be able to use the submitted

data for inspection and outreach purposes after December 15, 2017.

B. The Final Rule

OSHA concludes the appropriate course of action is to delay the compliance date to December 15, 2017. OSHA agrees with those commenters supporting a delay of the initial submission deadline because OSHA did not make the electronic reporting system available before the July 1, 2017, submission deadline in the May 2016 final rule. OSHA also agrees with commenters that employers will need sufficient time to learn and understand the reporting requirements and electronic reporting system, especially during the initial year of the data collection. OSHA believes the four-month period between the launch of the data collection system on August 1, and a compliance date of December 15, will provide employers sufficient time to provide the required data to OSHA. As noted above, OSHA has delayed by two weeks the proposed compliance date of December 1, 2017, to compensate for the time employers were unable to access the ITA in August. OSHA also has determined that this two-week delay will allow the Agency to avoid future delays by ensuring that the electronic reporting system functions properly.

OSHA does not agree with commenters who called for a substantially longer delay. OSHA reiterates that it intends to issue a separate proposal to reconsider, revise, or remove other provisions of the prior final rule and to seek comment on those provisions in that separate proposal; this final rule only delays the compliance date to submit employers' 2016 Form 300A data. The separate rulemaking will afford OSHA the time necessary to give full reconsideration to substantive issues concerning the May 6, 2016, final rule.

OSHA also notes, as above, that employers will have the same four months' worth of time with the delayed date as they would have had with the original date. In addition, OSHA notes that the original final rule was published in May 2016 and that file specifications for electronic submission have been available on the OSHA Web site since February 2017.

Finally, OSHA notes that employers were already required to complete, certify, and post the 2016 OSHA Form 300A by February 1, 2017, so OSHA does not expect employers to have difficulty collecting and electronically submitting the data from the 2016 OSHA Form 300A by December 15, 2017. On August 1, the first day the system launched, employers created 668

accounts, registered 1,000 establishments, and completed the submission of calendar year 2016 data from 919 OSHA Form 300As. OSHA believes that the four months from the launch date of August 1, 2017, to the new delayed deadline of December 15, 2017, provide ample time for employers to submit their 2016 data and for the agency to conduct additional outreach to employers to inform them of their obligations.

OSHA's August 1, 2017, launch of the electronic reporting system moots the comments calling for an immediate implementation of the reporting requirements because data collection began on that launch date. OSHA agrees with commenters that the delay in the compliance date will cause an initial delay in the Agency's ability to use the data for inspection and outreach purposes, but only on a temporary basis during the initial collection year. The Agency will be able to use the submitted data after December 15, 2017.

III. Final Economic Analysis

Executive Orders 12866 and 13563 require that OSHA estimate the benefits, costs, and net benefits of proposed and final regulations. Executive Orders 12866 and 13563, the Regulatory Flexibility Act, and the Unfunded Mandates Reform Act also require OSHA to estimate the costs, assess the benefits, and analyze the impacts of certain rules that the Agency promulgates. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

In the Preliminary Economic Analysis, OSHA proposed to delay the deadline for electronic submission of Form 300A data under the regulation from July 1, 2017, to December 1, 2017.

To calculate the private-sector cost for provisions in the current regulation impacted by the proposed delay of the first year's submission date from July 1, 2017 to December 1, 2017, OSHA subtracted costs not applicable to the proposed delay from the original private-sector cost of the final rule. The subtracted costs include the costs of familiarization and checking by unregulated establishments (both of which would have taken place after the

rule was published in May 2016), the costs of the non-discrimination provision (which became enforceable in 2016), and the costs of submission of case data (the OSHA Log data) (which is not required until 2018). This yields a cost of \$4,845,365 per year. This cost represents the cost of electronically submitting the required 2016 information from the OSHA Form 300A in 2017. The affected employers have already gathered and recorded this information, as required by various provisions of part 1904.

This delay only affects costs for 2017, because the delay does not modify the deadlines for electronic submission in subsequent years. Thus, the only cost savings associated with this change are for delaying the deadline for the electronic submission of previously-recorded data by five-and-one-half months, from July 1, 2017 to December 15, 2017.

The cost savings of the five and one half month delay are estimated based on the interest that can now be earned on the funds involved while the report for the first year is delayed.¹ At a 3-percent discount rate, this results in a one-time cost savings of \$65,201, or \$7,644 per year annualized over 10 years. At a 7-percent discount rate, this results in a one-time cost savings of \$147,950, or \$21,065 per year annualized over 10 years. OSHA requested comments on these cost savings calculations but did not receive any public comments.

The Agency notes that it did not include an overhead labor cost in the Final Economic Analysis (FEA) for this rule, and all costs of this final rule are labor costs. OSHA did not receive any comments on the use of overhead costs in the Preliminary Economic Analysis for this delay. It is important to note that there is not one broadly accepted overhead rate and that the use of overhead to estimate the marginal costs of labor raises a number of issues that should be addressed before applying overhead costs to analyze the costs of any specific regulation. There are several approaches to look at the cost elements that fit the definition of overhead, and there are a range of overhead estimates currently used within the federal government—for example, the Environmental Protection Agency has used 17 percent,² and

¹ The entire derivation is as follows: OSHA begins with a current private sector cost of the original rule of \$4,845,365 times the discount rate value of the delay of $(1+d)^{-t} - ((5.5)/12)$. OSHA then subtracts this value (which is \$4,837,917 at 3 percent) from the full value of \$4,845,365. This results in a difference of \$7,644 in annualized costs.

² Cody Rice, U.S. Environmental Protection Agency, "Wage Rates for Economic Analyses of the Toxics Release Inventory Program," June 10, 2002.

government contractors have been reported to use an average of 77 percent.³ Some overhead costs, such as advertising and marketing, may be more closely correlated with output than with labor. Other overhead costs vary with the number of new employees. For example, rent or payroll processing costs may change little with the addition of 1 employee in a 500-employee firm, but may change substantially with the addition of 100 employees. If an employer is able to rearrange current employees' duties to implement a rule, then the marginal share of overhead costs such as rent, insurance, and major office equipment (e.g., computers, printers, copiers) would be very difficult to measure with accuracy (e.g., computer use costs associated with two hours for rule familiarization by an existing employee).

If OSHA had included an overhead rate when estimating the marginal cost of labor, without further analyzing an appropriate quantitative adjustment, and adopted for these purposes an overhead rate of 17 percent on base wages, as was done in a sensitivity analysis in the FEA in support of OSHA's 2016 final rule on Occupational Exposure to Respirable Crystalline Silica, the base wages would increase annualized cost savings by approximately \$1,299 per year using a 3-percent discount rate and by \$3,581 a year using a 7-percent discount rate.

As noted below, OSHA has stated that the data submission requirements of the original final rule would lead employers to increase workplace safety and health; although the costs of the safety- and health-improving actions have not been quantified, the savings associated with a delay of such costs would be analogous to those calculated for quantified costs.

Table 1 summarizes the annualized and one-time cost savings.

TABLE 1—ANNUALIZED AND ONE-TIME COST SAVINGS⁵

Cost savings method	Annualized savings	One time cost savings
3-Percent Discount Rate ...	\$7,644	\$65,201
7-Percent Discount Rate ...	21,065	147,950

OSHA did not quantify the benefits of the May 2016 final rule. In the economic analysis of the final rule, OSHA stated that the rule would improve OSHA's

ability to identify, target, and remove safety and health hazards, thereby preventing workplace injuries, illnesses, and deaths. In addition, OSHA stated that the data submission requirements of the final rule would improve the quality of the information submitted and lead employers to increase workplace safety and health. OSHA also projected benefits associated with making the data publicly available. OSHA posits that this relatively brief delay in initial submissions will not have a meaningful effect on these benefits; however, because of the lack of quantification, there is some uncertainty as to what the impact will be. Other aspects of the final rule that OSHA determined would produce benefits, such as the non-discrimination provision and the collection of case characteristic data (OSHA Forms 300, 301) from establishments with 250 or more employees, would not be altered by this proposed action.

As categorized in Section II, above, OSHA received some comments stating there would be a loss of benefits because of the delay. The benefits from the rule will still accrue, but with a delay of, at most, 5 months. In any case, OSHA must delay the initial submission deadline, because OSHA did not make the electronic reporting system available before the July 1, 2017 submission deadline in the May 2016 final rule. Establishments are still required to report their 2016 injury summaries in 2017, and this information will be available to OSHA, just with a short delay.

OSHA concludes that this delay of five months is both economically and technologically feasible. The delay meets both criteria of feasibility because the original rule was economically and technologically feasible without a five-month delay.

OSHA has considered whether this final rule will have a significant economic impact on small firms. As a result of these considerations, in accordance with section 605 of the Regulatory Flexibility Act, OSHA certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Thus, OSHA did not prepare an initial regulatory flexibility analysis or conduct a SBREFA Panel.

IV. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), OSHA has estimated the annualized cost savings over 10 years for this final rule to range from \$7,644 to \$21,065, depending on the discount rate. Therefore, this final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this rule can be found in the rule's economic analysis.

V. Paperwork Reduction Act

This final rule does not change the information collections already approved by OMB under control number 1218-0176.

List of Subjects in 29 CFR Part 1904

Health statistics, Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC, on November 20, 2017.

Loren Sweatt,
Deputy Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standard

For the reasons stated in SUPPLEMENTARY INFORMATION above, OSHA amends part 1904 of chapter XVII of title 29 as follows:

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

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

Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

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

■ 2. Revise § 1904.41(c)(1) to read as follows:

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

* * * * *

(c) *Reporting dates.* (1) In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

inputs-used-in-ebbsa-opr-ria-and-pra-burden-calculations-august-2016.pdf.

⁵ All cost savings are in 2014 dollars. Costs are annualized over ten years.

³ Grant Thornton LLP, 2015 Government Contractor Survey. (<https://www.grantthornton.com/-/media/content-page-files/public-sector/pdfs/surveys/2015/Gov-Contractor-Survey.ashx>).

⁴ For further examples of overhead cost estimates, please see the Employee Benefits Security Administration's guidance at <https://www.dol.gov/sites/default/files/ebbsa/laws-and-regulations/rules-and-regulations/technical-appendices/labor-cost->

Submission year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017	300A	300A	December 15, 2017.
2018	300A, 300, 301	300A	July 1, 2018.

* * * * *

[FR Doc. 2017-25392 Filed 11-22-17; 8:45 am]

BILLING CODE 4510-26-P

Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness; Final Rule

As Adopted by the
Safety and Health Codes Board

Date: February 16, 2017



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: May 15, 2017

- 16VAC25-85-1904.32, Year-end Review and Annual Summary, §1904.32
- 16VAC25-85-1904.33, Retention and maintenance of Accurate Records, §1904.33
- 16VAC25-85-1904.34, Change in Business Ownership, §1904.34
- 16VAC25-85-1904.35, Employee Involvement, §1904.35
- 16VAC25-85-1904.40, Providing Accurate Records to Government Representatives, §1904.40

When the regulations, as set forth in the Final Rule for the Clarification of Employer's Continuing Obligation To Make and Maintain an Accurate Record of Each Recordable Injury and Illness, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

January 18, 2017

May 15, 2017

- 2. Revise § 1904.0 to read as follows:

§ 1904.0 Purpose.

The purpose of this rule (part 1904) is to require employers to make and maintain accurate records of and report work-related fatalities, injuries, and illnesses, and to make such records available to the Government and to employees and their representatives so that they can be used to secure safe and healthful working conditions. For purposes of this part, accurate records are records of each and every recordable injury and illness that are made and maintained in accordance with the requirements of this part.

Note to § 1904.0: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

Subpart C—Making and Maintaining Accurate Records, Recordkeeping Forms, and Recording Criteria

- 3. Revise the heading of subpart C to read as set forth above.

- 4. In § 1904.4, revise paragraph (a) introductory text and add a note to § 1904.4(a) to read as follows:

§ 1904.4 Recording criteria.

(a) *Basic requirement.* Each employer required by this part to keep records of fatalities, injuries, and illnesses must, in accordance with the requirements of this part, make and maintain an accurate record of each and every fatality, injury, and illness that:

* * * * *

Note to § 1904.4(a): This obligation to make and maintain an accurate record of each and every recordable fatality, injury, and illness continues throughout the entire record retention period described in § 1904.33.

* * * * *

- 5. Revise § 1904.29(b)(3) to read as follows:

§ 1904.29 Forms.

* * * * *

(b) * * *

(3) *How quickly must each injury or illness be recorded?* You must enter each and every recordable injury or illness on the OSHA 300 Log and on a 301 Incident Report within seven (7) calendar days of receiving information that the recordable injury or illness occurred. A failure to record within seven days does not extinguish your continuing obligation to make a record of the injury or illness and to maintain accurate records of all recordable injuries and illnesses in accordance

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

with the requirements of this part. This obligation continues throughout the entire record retention period described in § 1904.33. See §§ 1904.4(a); 1904.32(a)(1); 1904.33(b)(1); and 1904.40(a).

* * * * *

■ 6. Revise the heading and paragraphs (a) and (b)(1) of § 1904.32 to read as follows:

§ 1904.32 Year-end review and annual summary.

(a) *Basic requirement.* At the end of each calendar year, you must:

(1) Review that year's OSHA 300 Log to verify that it contains accurate entries for all recordable injuries and illnesses that occurred during the year, and make any additions or corrections necessary to ensure its accuracy;

(2) Verify that each injury and illness recorded on the 300 Log, including any injuries and illnesses added to the Log following your year-end review pursuant to paragraph (a)(1) of this section, is accurately recorded on a corresponding 301 Incident Report form;

(3) After you have verified the accuracy of the Log, create an annual summary of injuries and illnesses recorded on the Log;

(4) Certify the summary; and

(5) Post the summary.

(b) * * *

(1) *How extensively do I have to review the OSHA 300 Log at the end of the year?* You must review the Log and its entries as extensively as necessary to verify that all recordable injuries and illnesses that occurred during the year are entered and that the Log and its entries are accurate.

* * * * *

■ 7. Revise the heading and paragraph (b) of § 1904.33 to read as follows:

§ 1904.33 Retention and maintenance of accurate records.

* * * * *

(b) *Implementation—(1) Other than the obligation identified in § 1904.32, do I have further recording duties with respect to the OSHA 300 Logs and 301 Incident Reports during the five-year retention period?* You must make the following additions and corrections to the OSHA Log and Incident Reports during the five-year retention period:

(i) The OSHA Logs must contain entries for all recordable injuries and illnesses that occurred during the calendar year to which each Log relates. In addition, each and every recordable injury and illness must be recorded on an Incident Report. This means that if a recordable case occurred and you

failed to record it on the Log for the year in which the injury or illness occurred, and/or on an Incident Report, you are under a continuing obligation to record the case on the Log and/or Incident Report during the five-year retention period for that Log and/or Incident Report;

(ii) You must also make any additions and corrections to the OSHA Log that are necessary to accurately reflect any changes that have occurred with respect to previously recorded injuries and illnesses. Thus, if the classification, description, or outcome of a previously recorded case changes, you must remove or line out the original entry and enter the new information; and

(iii) You must have an Incident Report for each and every recordable injury and illness; however, you are not required to make additions or corrections to Incident Reports during the five-year retention period.

(2) *Do I have to make additions or corrections to the annual summary during the five-year retention period?* You are not required to make additions or corrections to the annual summaries during the five-year retention period.

■ 8. Revise § 1904.34 to read as follows:

§ 1904.34 Change in business ownership.

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the Part 1904 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by § 1904.33, but need not update or correct the records of the prior owner. The new owner is not responsible for recording and reporting work-related injuries and illnesses that occurred before the new owner took ownership of the establishment.

■ 9. Revise paragraphs (b)(2) introductory text and (b)(2)(iii) of § 1904.35 to read as follows:

§ 1904.35 Employee involvement.

* * * * *

(b) * * *

(2) *Do I have to give my employees and their representatives access to the OSHA injury and illness records?* Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access accurate OSHA injury and illness records, with some limitations, as discussed below.

* * * * *

(iii) *If an employee or representative asks for access to the OSHA 300 Log,*

when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant and accurate OSHA 300 Log(s) by the end of the next business day.

* * * * *

Subpart E—Reporting Accurate Fatality, Injury, and Illness Information to the Government

■ 10. Revise the heading of subpart E to read as set forth above.

■ 11. Revise the heading and paragraph (a) of § 1904.40 to read as follows:

§ 1904.40 Providing accurate records to government representatives.

(a) *Basic requirement.* When an authorized government representative requests the records you keep under part 1904, you must provide accurate records, or copies thereof, within four (4) business hours of the request.

* * * * *

[FR Doc. 2016-30410 Filed 12-16-16; 8:45 am] BILLING CODE 4510-26-P

**Improve Tracking of Workplace Injuries and Illnesses, §§1904.35, 1904.36, and 1904.41;
Final Rule; and Correction to §1904.35(b)(2)**

As Adopted by the

Safety and Health Codes Board

Date: September 13, 2016



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: December 1, 2016

16VAC85-1904.35, Employee Involvement, §1904.35
16VAC85-1904.36, Prohibition Against Discrimination, §1904.36
16VAC85-1904.41, Electronic Submission of Injury and Illness Records to OSHA, §1904.41

When the regulations, as set forth in the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, §§1904.35, 1904.36, and 1904.41; and the Correction to §1904.35(b)(2), are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

Federal Effective Dates

VOSH Effective Dates

January 1, 2017, except for below:

January 1, 2017, except for below:

August 10, 2016 for §1904.36

December 1, 2016 for §1904.35 & §1904.36

Final Rule

For the reasons stated in the preamble, OSHA amends parts 1904 and 1902 of chapter XVII of title 29 as follows:

PART 1904—[AMENDED]

■ 2. Revise § 1904.35 to read as follows:

§ 1904.35 Employee involvement.

(a) *Basic requirement.* Your employees and their representatives must be involved in the recordkeeping system in several ways.

(1) You must inform each employee of how he or she is to report a work-related injury or illness to you.

(2) You must provide employees with the information described in paragraph (b)(1)(iii) of this section.

(3) You must provide access to your injury and illness records for your employees and their representatives as described in paragraph (b)(2) of this section.

(b) *Implementation—(1) What must I do to make sure that employees report work-related injuries and illnesses to me?* (i) You must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;

(ii) You must inform each employee of your procedure for reporting work-related injuries and illnesses;

(iii) You must inform each employee that:

(A) Employees have the right to report work-related injuries and illnesses; and

(B) Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses; and

(iv) You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.

(2) [Reserved]

■ 3. Revise § 1904.36 to read as follows:

§ 1904.36 Prohibition against discrimination.

In addition to § 1904.35, section 11(c) of the OSH Act also prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the part 1904 records, or otherwise exercises any rights afforded by the OSH Act.

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

■ 5. Revise § 1904.41 to read as follows:

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

(a) *Basic requirements*—(1) *Annual electronic submission of part 1904 records by establishments with 250 or more employees.* If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the forms.

(2) *Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 20 or more employees but fewer than 250 employees in designated industries.* If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your

establishment is classified in an industry listed in appendix A to subpart E of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(3) *Electronic submission of part 1904 records upon notification.* Upon notification, you must electronically submit the requested information from your part 1904 records to OSHA or OSHA's designee.

(b) *Implementation*—(1) *Does every employer have to routinely submit information from the injury and illness records to OSHA?* No, only two categories of employers must routinely submit information from their injury and illness records. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required Form 300A, 300, and 301 information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must submit the required Form 300A information to OSHA once a year. Employers in these two categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms (for example, 2017 for the 2016 forms). If you are not in either of these two categories, then you must submit information from the injury and illness records to OSHA only if OSHA notifies you to do so for an individual data collection.

(2) *If I have to submit information under paragraph (a)(1) of this section, do I have to submit all of the information from the recordkeeping form?* No, you are required to submit all of the information from the form *except* the following:

(i) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

(ii) 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).

(3) *Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section?* Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

(4) *How will OSHA notify me that I must submit information from the injury and illness records as part of an individual data collection under paragraph (a)(3) of this section?* OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)(3). OSHA will also announce individual data collections through publication in the **Federal Register** and the OSHA newsletter, and announcements on the OSHA Web site. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(5) *How often do I have to submit the information from the injury and illness records?* If you are required to submit information under paragraph (a)(1) or (2) of this section, then you must submit the information once a year, by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)(3) of this section, then you must submit the information as often as specified in the notification.

(6) *How do I submit the information?* You must submit the information electronically. OSHA will provide a secure Web site for the electronic submission of information. For individual data collections under paragraph (a)(3) of this section, OSHA will include the Web site's location in the notification for the data collection.

(7) *Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records?* If you are partially exempt from keeping injury and illness records under §§ 1904.1 and/or 1904.2, then you do not have to routinely submit part 1904 information under paragraphs (a)(1) and (2) of this section. You will have to submit information under paragraph (a)(3) of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

(8) *Do I have to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.*

(9) *May an enterprise or corporate office electronically submit part 1904 records for its establishment(s)? Yes, if your enterprise or corporate office had*

ownership of or control over one or more establishments required to submit information under paragraph (a)(1) or (2) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

(c) *Reporting dates.* (1) In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

Submission year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017	300A	300A	July 1, 2017.
2018	300A, 300, 301	300A	July 1, 2018.

(2) Beginning in 2019, establishments that are required to submit under paragraph (a)(1) or (2) of this section will have to submit all of the required information by March 2 of the year after the calendar year covered by the form or forms (for example, by March 2, 2019, for the forms covering 2018).

■ 6. Add appendix A to subpart E of part 1904 to read as follows:

Appendix A to Subpart E of Part 1904— Designated Industries for § 1904.41(a)(2) Annual Electronic Submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by Establishments With 20 or More Employees but Fewer Than 250 Employees in Designated Industries

NAICS	Industry
11	Agriculture, forestry, fishing and hunting.
22	Utilities.
23	Construction.
31–33	Manufacturing.
42	Wholesale trade.
4413	Automotive parts, accessories, and tire stores.
4421	Furniture stores.
4422	Home furnishings stores.
4441	Building material and supplies dealers.
4442	Lawn and garden equipment and supplies stores.
4451	Grocery stores.
4452	Specialty food stores.
4521	Department stores.
4529	Other general merchandise stores.
4533	Used merchandise stores.
4542	Vending machine operators.
4543	Direct selling establishments.
4811	Scheduled air transportation.
4841	General freight trucking.
4842	Specialized freight trucking.
4851	Urban transit systems.
4852	Interurban and rural bus transportation.
4853	Taxi and limousine service.
4854	School and employee bus transportation.
4855	Charter bus industry.
4859	Other transit and ground passenger transportation.
4871	Scenic and sightseeing transportation, land.
4881	Support activities for air transportation.
4882	Support activities for rail transportation.
4883	Support activities for water transportation.
4884	Support activities for road transportation.
4889	Other support activities for transportation.
4911	Postal service.
4921	Couriers and express delivery services.
4922	Local messengers and local delivery.
4931	Warehousing and storage.
5152	Cable and other subscription programming.
5311	Lessors of real estate.
5321	Automotive equipment rental and leasing.
5322	Consumer goods rental.
5323	General rental centers.
5617	Services to buildings and dwellings.
5621	Waste collection.
5622	Waste treatment and disposal.
5629	Remediation and other waste management services.
6219	Other ambulatory health care services.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1904 and 1902

[Docket No. OSHA-2013-0023]

RIN 1218-AC49

Improve Tracking of Workplace Injuries and Illnesses; Correction

AGENCY: Occupational Safety and Health Administration (OSHA), DOL.

ACTION: Final rule; correction.

SUMMARY: OSHA published in the *Federal Register* of May 12, 2016, a final rule revising its Recording and Reporting Occupational Injuries and Illnesses Regulation. In the rule, a paragraph was inadvertently removed. This document reinserts that paragraph.

DATES: *Effective:* August 10, 2016.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Frank Meilinger, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email: meilinger.francis2@dol.gov.

For general and technical information: Miriam Schoenbaum, Office of Statistical Analysis, Room N-3507, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202)693-1841; email: schoenbaum.miriam@dol.gov.

SUPPLEMENTARY INFORMATION: OSHA published in the *Federal Register* of May 12, 2016, a final rule revising its Recording and Reporting Occupational Injuries and Illnesses regulation (92 FR 29624).

This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health. It is issued under Sections 8 and 24 of the Occupational Safety and Health Act (29 U.S.C. 657, 673), Section 553 of the Administrative Procedure Act (5 U.S.C. 553), and Secretary of Labor's Order No. 41-2012 (77 FR 3912 (Jan. 25, 2012)).

Need for Correction

Inadvertently § 1904.35(b)(2) was designated as reserved. This document reinserts that paragraph.

In FR Rule Doc. No. 2016-10443 beginning on page 29624 in the issue of May 12, 2016, make the following correction:

On page 29692, in the first column, after the second paragraph, remove "(2) [Reserved]." and add the following in its place:

"(2) *Do I have to give my employees and their representatives access to the*

OSHA injury and illness records? Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

(i) *Who is an authorized employee representative? An authorized employee representative is an authorized collective bargaining agent of employees.*

(ii) *Who is a "personal representative" of an employee or former employee? A personal representative is:*

(A) Any person that the employee or former employee designates as such, in writing; or

(B) The legal representative of a deceased or legally incapacitated employee or former employee.

(iii) *If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.*

(iv) *May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative? No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in § 1904.29(b)(6) through (9).*

(v) *If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it? (A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.*

(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee

representative information from the OSHA 301 Incident Report section titled "Tell us about the case." You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative.

(vi) *May I charge for the copies?* No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records."

Signed at Washington, DC, on May 13, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016-11817 Filed 5-19-16; 8:45 am]

BILLING CODE 4510-26-P

**Recording and Reporting Occupational Injuries and Illnesses -
Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye
As a Result of Work-related Incidents to OSHA, 16VAC25-85-1904.39**

As Adopted by the

Safety and Health Codes Board

Date: September 13, 2016



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: December 1, 2016

**Recording and Reporting Occupational Injuries and Illnesses -
Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye
As a Result of Work-related Incidents to OSHA, 16VAC25-85-1904.39**

When the regulations, as set forth in the amendment to Regulation for Reporting Fatalities, Hospitalizations, Amputations, and Losses of an Eye As a Result of Work-related Incidents to OSHA, 16VAC25-85-1904.39, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

OSHA

VOSH

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Area Office

Regional Office

Agency

Department

January 1, 2015

December 1, 2016

2015 SESSION

CHAPTER 270

An Act to amend and reenact § [40.1-51.1](#) of the Code of Virginia, relating to workplace safety; employer reporting requirements.

[H 1681]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [40.1-51.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [40.1-51.1](#). Duties of employers.

A. It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees, and to comply with all applicable occupational safety and health rules and regulations promulgated under this title.

B. Every employer shall provide to employees by such suitable means as shall be prescribed in rules and regulations of the Safety and Health Codes Board, information regarding their exposure to toxic materials or harmful physical agents and prompt information when they are exposed to concentration or levels of toxic materials or harmful physical agents in excess of those prescribed by the applicable safety and health standards and shall provide employees or their representatives with the opportunity to observe monitoring or measuring of exposures. Every employer shall also inform any employee who is being exposed of the corrective action being taken and shall provide former employees with access to information about their exposure to toxic materials or harmful physical agents.

C. Every employer cited for a violation of any safety and health provisions of this title or standards, rules and regulations promulgated thereunder shall post a copy of such citation at the site of the violations so noted as prescribed in the rules and regulations of the Safety and Health Codes Board.

D. Every employer shall report to the Virginia Department of Labor and Industry within eight hours any work-related incident resulting in (i) a fatality ~~or in~~, (ii) the ~~in-patient~~ *inpatient* hospitalization of ~~three~~ *one* or more persons, (iii) *an amputation*, or (iv) *the loss of an eye*, as prescribed in the rules and regulations of the Safety and Health Codes Board.

E. Every employer, through posting of notices or other appropriate means, shall keep his employees informed of their rights and responsibilities under this title and of specific safety and health standards applicable to his business establishment.

F. An employer representative shall be given the opportunity to accompany the safety and health inspectors on safety or health inspections.

G. Nothing in this section shall be construed to limit the authority of the Commissioner pursuant to § [40.1-6](#) or the Board pursuant to § [40.1-22](#) to promulgate necessary rules and regulations to protect and promote the safety and health of employees.

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 336

An Act to amend and reenact § 40.1-51.1 of the Code of Virginia, relating to reporting requirements for work-related hospitalization, amputation, or loss of an eye.

[H 691]

Approved March 11, 2016

Be it enacted by the General Assembly of Virginia:

1. That § 40.1-51.1 of the Code of Virginia is amended and reenacted as follows:

§ 40.1-51.1. Duties of employers.

A. It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment ~~which~~ *that* is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; and to comply with all applicable occupational safety and health rules and regulations promulgated under this title.

B. Every employer shall provide to employees, by such suitable means as shall be prescribed in rules and regulations of the Safety and Health Codes Board, information regarding their exposure to toxic materials or harmful physical agents and prompt information when they are exposed to concentration or levels of toxic materials or harmful physical agents in excess of those prescribed by the applicable safety and health standards and shall provide employees or their representatives with the opportunity to observe monitoring or measuring of exposures. Every employer shall also inform any employee who is being exposed of the corrective action being taken and shall provide former employees with access to information about their exposure to toxic materials or harmful physical agents.

C. Every employer cited for a violation of any safety and health provisions of this title or standards, rules, and regulations promulgated thereunder shall post a copy of such citation at the site of the violations so noted as prescribed in the rules and regulations of the Safety and Health Codes Board.

D. Every employer shall report to the Virginia Department of Labor and Industry within eight hours any work-related incident resulting in ~~(i)~~ a fatality, ~~(ii)~~ *or within 24 hours any work-related incident resulting in (i)* the inpatient hospitalization of one or more persons, ~~(iii)~~ *(ii)* an amputation, or ~~(iv)~~ *(iii)* the loss of an eye, as prescribed in the rules and regulations of the Safety and Health Codes Board.

E. Every employer, through posting of notices or other appropriate means, shall keep his employees informed of their rights and responsibilities under this title and of specific safety and health standards applicable to his business establishment.

F. An employer representative shall be given the opportunity to accompany the safety and health inspectors on safety or health inspections.

G. Nothing in this section shall be construed to limit the authority of the Commissioner pursuant to § 40.1-6 or the Board pursuant to § 40.1-22 to promulgate necessary rules and regulations to protect and promote the safety and health of employees.

**Non-relevant Federal Register
material has been deleted**

■ 4. Revise § 1904.39 to read as follows:

§ 1904.39 Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to OSHA.

(a) *Basic requirement.* (1) Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

(2) Within twenty-four (24) hours after 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, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

(3) You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:

(i) By telephone or in person to the OSHA Area Office that is nearest to the site of the incident.

(ii) By telephone to the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(iii) By electronic submission using the reporting application located on OSHA's public Web site at www.osha.gov.

(b) *Implementation—(1) If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on OSHA's answering machine, faxing the Area Office, or sending an email?* No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public Web site at www.osha.gov.

(2) *What information do I need to give to OSHA about the in-patient hospitalization, amputation, or loss of an eye?* You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

(i) The establishment name;

(ii) The location of the work-related incident;

(iii) The time of the work-related incident;

(iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);

(v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vii) Your contact person and his or her phone number; and

(viii) A brief description of the work-related incident.

(3) *Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway?* If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway,

but not in a construction work zone, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) *Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system?* No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) *Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack?* Yes, your local OSHA Area Office director will decide whether to investigate the event, depending on the circumstances of the heart attack.

(6) *What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident?* You must only report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident. For

an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to OSHA if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(7) *What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away?* If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to OSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(8) *What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident?* If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient

hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(9) *How does OSHA define "in-patient hospitalization"?* OSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.

(10) *Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing?* No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each in-patient hospitalization that involves care or treatment.

(11) *How does OSHA define "amputation"?* An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, degloving, scalping, severed ears, or broken or chipped teeth.

[FR Doc. 2014-21514 Filed 9-17-14; 8:45 am]

BILLING CODE 4510-26-P

**Occupational Injury and Illness Recording and Reporting Requirements –
NAICS Update and Reporting Revisions, 16VAC25-85-1904.2 and 16VAC25-85-1904.39**

As Adopted by the
Safety and Health Codes Board

Date: July 9, 2015



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: September 15, 2015

Occupational Injury and Illness Recording and Reporting Requirements –
NAICS Update and Reporting Revisions, 16VAC25-85-1904.2 and 16VAC25-85-1904.39

When the regulations, as set forth in the amendment to Regulation for Occupational Injury and Illness Recording and Reporting Requirements – NAICS Update and Reporting Revisions, 16VAC25-85-1904.2 and 16VAC25-85-1904.39, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

OSHA

VOSH

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Area Office

Regional Office

Agency

Department

January 1, 2015

September 15, 2015

Final Rule

Part 1904 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1904—[AMENDED]

■ 1. The authority citation for part 1904 continues to read as follows:
Authority: 29 U.S.C. 657, 658, 660, 666, 669, 673, Secretary of Labor’s Order No. 3–2000 (65 FR 50017), and 5 U.S.C. 533.

■ 2. Amend § 1904.2 by revising paragraphs (a)(1) and (b) to read as follows:

§ 1904.2 Partial exemption for establishments in certain industries.

(a) *Basic requirement.* (1) If your business establishment is classified in a specific industry group listed in appendix A to this subpart, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under §§ 1904.41 or 1904.42. However, all employers must report to OSHA any workplace incident that results in an employee’s fatality, inpatient hospitalization, amputation, or loss of an eye (see § 1904.39).

* * * * *

(b) *Implementation—(1) Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company?* The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company’s establishments may be required to keep records, while others may be partially exempt.

(2) *How do I determine the correct NAICS code for my company or for*

individual establishments? You can determine your NAICS code by using one of three methods, or you may contact your nearest OSHA office or State agency for help in determining your NAICS code:

(i) You can use the search feature at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the “Concordances” link at the U.S. Census Bureau NAICS main Web page: <http://www.census.gov/eos/www/naics/>.

■ 3. Revise Non-Mandatory Appendix A to Subpart B of Part 1904 to read as follows:

Non-Mandatory Appendix A to Subpart B of Part 1904—Partially Exempt Industries

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any employee’s fatality, inpatient hospitalization, amputation, or loss of an eye (see § 1904.39).

NAICS Code	Industry
4412	Other Motor Vehicle Dealers.
4431	Electronics and Appliance Stores.
4461	Health and Personal Care Stores.
4471	Gasoline Stations.

NAICS Code	Industry
4481	..... Clothing Stores.
4482	..... Shoe Stores.
4483	.....Jewelry, Luggage, and Leather Goods Stores.
4511	..... Sporting Goods, Hobby, and Musical Instrument Stores.
4512	.....Book, Periodical, and Music Stores.
4531	.....Florists.
4532	.....Office Supplies, Stationery, and Gift Stores.
4812	.....Nonscheduled Air Transportation.
4861	..... Pipeline Transportation of Crude Oil.
4862	.....Pipeline Transportation Natural Gas.
4869	..... Other Pipeline Transportation.
4879	..... Scenic and Sightseeing Transportation, Other.
4885	.....Freight Transportation Arrangement.
5111	.....Newspaper, Periodical, Book, and Directory Publishers.
5112	.....Software Publishers.
5121	.....Motion Picture and Video Industries.
5122	.....Sound Recording Industries.
5151	.....Radio and Television Broadcasting.
5172	.....Wireless Telecommunications Carriers (except Satellite).
5173	..... Telecommunications Resellers.
5179	..... Other Telecommunications.
5181	..... Internet Service Providers and Web Search Portals.
5182	..... Data Processing, Hosting, and Related Services.
5191	..... Other Information Services.
5211	..... Monetary Authorities—Central Bank.
5221	..... Depository Credit Intermediation.
5222	..... Nondepository Credit Intermediation.
5223	..... Activities Related to Credit Intermediation.
5231	..... Securities and Commodity Contracts Intermediation and Brokerage.
5232	..... Securities and Commodity Exchanges.
5239	..... Other Financial Investment Activities.
5241	..... Insurance Carriers.
5242	..... Agencies, Brokerages, and Other Insurance Related Activities.
5251	..... Insurance and Employee Benefit Funds.
5259	..... Other Investment Pools and Funds.
5312	..... Offices of Real Estate Agents and Brokers.
5331	..... Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
5411	..... Legal Services.
5412	..... Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413	..... Architectural, Engineering, and Related Services.
5414	..... Specialized Design Services.
5415	..... Computer Systems Design and Related Services.

NAICS Code	Industry
5416	..... Management, Scientific, and Technical Consulting Services.
5417	..... Scientific Research and Development Services.
5418	..... Advertising and Related Services.
5511	..... Management of Companies and Enterprises.
5611	..... Office Administrative Services.
5614	..... Business Support Services.
5615	..... Travel Arrangement and Reservation Services.
5616	..... Investigation and Security Services.
6111	..... Elementary and Secondary Schools.
6112	..... Junior Colleges.
6113	..... Colleges, Universities, and Professional Schools.
6114	..... Business Schools and Computer and Management Training.
6115	..... Technical and Trade Schools.
6116	..... Other Schools and Instruction.
6117	..... Educational Support Services.
6211	..... Offices of Physicians.
6212	..... Offices of Dentists.
6213	..... Offices of Other Health Practitioners.
6214	..... Outpatient Care Centers.
6215	..... Medical and Diagnostic Laboratories.
6244	..... Child Day Care Services.
7114	..... Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115	..... Independent Artists, Writers, and Performers.
7213	..... Rooming and Boarding Houses.
7221	..... Full-Service Restaurants.
7222	..... Limited-Service Eating Places.
7224	..... Drinking Places (Alcoholic Beverages).
8112	..... Electronic and Precision Equipment Repair and Maintenance.
8114	..... Personal and Household Goods Repair and Maintenance.
8121	..... Personal Care Services.
8122	..... Death Care Services.
8131	..... Religious Organizations.
8132	..... Grantmaking and Giving Services.
8133	..... Social Advocacy Organizations.
8134	..... Civic and Social Organizations.
8139	..... Business, Professional, Labor, Political, and Similar Organizations.

■ 4. Revise § 1904.39 to read as follows:

§ 1904.39 Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to OSHA.

(a) *Basic requirement.* (1) Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

(2) Within ~~twenty-four (24)~~ **eight (8)** hours after 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, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

(3) You must report the fatality, inpatient hospitalization, amputation, or loss of an eye using one of the following methods:

(i) By telephone or in person to the OSHA Area Office that is nearest to the site of the incident.

(ii) By telephone to the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(iii) By electronic submission using the reporting application located on OSHA's public Web site at www.osha.gov.

(b) *Implementation—*(1) *If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on OSHA's answering machine, faxing the Area Office, or sending an email?* No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public Web site at www.osha.gov.

(2) *What information do I need to give to OSHA about the in-patient hospitalization, amputation, or loss of an eye?* You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

- (i) The establishment name;
- (ii) The location of the work-related incident;
- (iii) The time of the work-related incident;
- (iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);
- (v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
- (vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
- (vii) Your contact person and his or her phone number; and
- (viii) A brief description of the work related incident.

(3) *Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway?* If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway,

but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye to OSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) *Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system?* No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) *Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack?* Yes, your local OSHA Area Office director will decide whether to investigate the event, depending on the circumstances of the heart attack.

(6) *What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident?* You must only report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident. For

an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to OSHA if it occurs within ~~twenty-four (24)~~ **eight (8)** hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(7) *What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away?* If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to OSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): Eight (8) hours for a fatality, and ~~twenty-four (24)~~ **eight (8) hours** for an in-patient hospitalization, an amputation, or a loss of an eye.

(8) *What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident?* If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient

hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and ~~twenty-four (24)~~ **eight (8)** hours for an inpatient hospitalization, an amputation, or a loss of an eye.

(9) *How does OSHA define "in-patient hospitalization"?* OSHA defines inpatient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.

(10) *Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing?* No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each inpatient hospitalization that involves care or treatment.

(11) *How does OSHA define "amputation"?* An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, deglovings, scalplings, severed ears, or broken or chipped teeth.

2015 SESSION

CHAPTER 270

An Act to amend and reenact § [40.1-51.1](#) of the Code of Virginia, relating to workplace safety; employer reporting requirements.

[H 1681]

Approved March 17, 2015

Be it enacted by the General Assembly of Virginia:

1. That § [40.1-51.1](#) of the Code of Virginia is amended and reenacted as follows:

§ [40.1-51.1](#). Duties of employers.

A. It shall be the duty of every employer to furnish to each of his employees safe employment and a place of employment which is free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees, and to comply with all applicable occupational safety and health rules and regulations promulgated under this title.

B. Every employer shall provide to employees by such suitable means as shall be prescribed in rules and regulations of the Safety and Health Codes Board, information regarding their exposure to toxic materials or harmful physical agents and prompt information when they are exposed to concentration or levels of toxic materials or harmful physical agents in excess of those prescribed by the applicable safety and health standards and shall provide employees or their representatives with the opportunity to observe monitoring or measuring of exposures. Every employer shall also inform any employee who is being exposed of the corrective action being taken and shall provide former employees with access to information about their exposure to toxic materials or harmful physical agents.

C. Every employer cited for a violation of any safety and health provisions of this title or standards, rules and regulations promulgated thereunder shall post a copy of such citation at the site of the violations so noted as prescribed in the rules and regulations of the Safety and Health Codes Board.

D. Every employer shall report to the Virginia Department of Labor and Industry within eight hours any work-related incident resulting in *(i)* a fatality ~~or in~~, *(ii)* the ~~in-patient~~ *inpatient* hospitalization of ~~three~~ *one* or more persons, *(iii)* an amputation, or *(iv)* the loss of an eye, as prescribed in the rules and regulations of the Safety and Health Codes Board.

E. Every employer, through posting of notices or other appropriate means, shall keep his employees informed of their rights and responsibilities under this title and of specific safety and health standards applicable to his business establishment.

F. An employer representative shall be given the opportunity to accompany the safety and health inspectors on safety or health inspections.

G. Nothing in this section shall be construed to limit the authority of the Commissioner pursuant to § [40.1-6](#) or the Board pursuant to § [40.1-22](#) to promulgate necessary rules and regulations to protect and promote the safety and health of employees.

**16 VAC 25-85-1904, Occupational Injury and Illness Recording and Reporting Requirements,
Revised Final Rule, §§1904.12 and 1904.29**

As Adopted by the
Safety and Health Codes Board

Date: November 5, 2003



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: January 15, 2004

16VAC25-85-1904, Occupational Injury and Illness Recording and Reporting Requirements,
Revised Final Rule

When the regulations, as set forth in the revised final rule for the Occupational Injury and Illness Recording and Reporting Requirements, §§1904.12, and 1904.29 (b)(7)(vi), are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

January 1, 2004

January 15, 2004

**16 VAC 25-85-1904, Occupational Injury and Illness Recording and Reporting Requirements,
Revised Final Rule, §§1904.10, 1904.12 and 1904.29**

As Adopted by the
Safety and Health Codes Board

Date: June 13, 2003



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: January 1, 2004

16 VAC 25-85-1904, Occupational Injury and Illness Recording and Reporting Requirements,
Revised Final Rule

When the regulations, as set forth in the revised final rule for the Occupational Injury and Illness Recording and Reporting Requirements, §§1904.10, 1904.12, and 1904.29 (b)(7)(vi), are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

January 1, 2004

January 1, 2004

Occupational Injury and Illness Recording and Reporting Requirements, §1904.10

As adopted by the
Safety and Health Codes Board

Date: December 2, 2002



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective dates: March 1, 2003

16VAC25-60-1904.10, Occupational Injury and Illness Recording and Reporting Requirements, §1904.10;
Revised Final Rule

When the regulations, as set forth in the final rule for the Occupational Injury and Illness Recording and Reporting Requirements, §1904.10, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

29 CFR 1904.0 through 1904.46

16 VAC 25-60-1904.0 through 1904.46

January 1, 2003

March 1, 2003

**Occupational Injury and Illness Recording and Reporting Requirements,
§§1904.0 through 1904.46; and**

As adopted by the

Safety and Health Codes Board

Date: October 11, 2001

**16 VAC 25-60-50, Accidents Reports; 16 VAC 25-60-60,
Occupational Injury and Illness Records, and 16 VAC 25-60-70,
Annual Survey**

As Repealed by the

Safety and Health Codes Board

Date: October 11, 2001



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Dates: January 1, 2002
January 1, 2003

16 VAC 25-60-1904.0 through 1904.46, Occupational Injury and Illness Recording and Reporting Requirements, §§1904.0 through 1904.46, Revised Final Rule

Effective Date: December 31, 2001

Repeal of 16 VAC 25-60-50, 16 VAC 25-60-60 and 16 VAC 25-60-70

When the regulations, as set forth in the final rule for the 16 VAC 25-85-1904.0 through 1904.46, Occupational Injury and Illness Recording and Reporting Requirements, §§1904.0 through 1904.46, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

29 CFR 1904.0 through 1904.46

16 VAC 85-1904.0 through 1904.46

January 1, 2002 (for 29 CFR 1904.0 through 1904.09, 1904.10(c) 1904.11 and 1904.13 through 1904.28, 1904.30 through 1904.46, 1904.29 except the second sentence in (b)(7)(vi)

January 1, 2002 (for §§1904.0 through 1904.09, 1904.10(c), 1904.11 and 1904.13 through 1904.28, 1904.30 through 1904.46, 1904.29, except the second sentence in (b)(7)(vi))

January 1, 2003 (for 29 CFR 1904.10 (a) and (b), 29 CFR 1904.12 and 1904.29 (b)(7)(vi) second sentence

January 1, 2003 (for §§ 1904.10(a) and (b), 1904.12, and 1904.29 (b)(7)(vi) second sentence

Implementation Schedule

The following sections will become **effective on January 1, 2002**

The following sections will become **effective on January 1, 2003**

1904.0 through 1904.09
 1904.10(c)
 1904.11
 1904.13 through 1904.28
 1904.29 except (b)(7)(vi) second sentence
 1904.30 through 1904.46

1904.10(a) and (b)
 1904.12
 1904.29(b)(7)(vi) second sentence