



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. OSHA-2015-0006]

RIN: 1218-AC84

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

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

ACTION: Final rule.

SUMMARY: Under the Congressional Review Act, Congress has passed, and the President has signed, Public Law 115-21, a resolution of disapproval of OSHA's final rule titled, "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of each Recordable Injury and Illness." OSHA published the rule, which contained various amendments to OSHA's recordkeeping regulations, on December 19, 2016. The amendments became effective on January 18, 2017. Because Public Law 115-21 invalidates the amendments to OSHA's recordkeeping regulations contained in the rule promulgated on December 19, 2016, OSHA is hereby removing those amendments from the Code of Federal Regulations.

DATES: This final rule becomes effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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

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SUPPLEMENTARY INFORMATION: On December 19, 2016, OSHA issued a final rule titled, "Clarification of Employer's Continuing Obligation to Make and Maintain an Accurate Record of Each Recordable Injury and Illness." See 81 FR 91792. The final rule, which became effective on January 18, 2017, resulted in 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. On March 1, 2017 (Cong. Rec. pp. H1421-H1430), the House of Representatives passed a resolution of disapproval (H.J. Res. 83) of the rule under the Congressional Review Act (5 U.S.C. 801 et seq.). The Senate then passed H.J. Res. 83 on March 22, 2017. President Trump signed the resolution into law as Public Law 115-21 on April 3, 2017. Accordingly, OSHA is hereby removing the affected amendments to the recordkeeping regulations from the Code of Federal Regulations.

List of Subjects in 29 CFR Part 1904

Health statistics, Occupational safety and health, Safety, Reporting and recordkeeping requirements, State plans.

Accordingly, the Occupational Safety and Health Administration amends part 1904 of title 29 of the Code of Federal Regulations as follows:

PART 1904 – RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

1. Revise the authority citation for part 1904 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).

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, 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.

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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.

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

§ 1904.33 Retention and updating.

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(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.

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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.

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Signed at Washington, D.C. on April 25, 2017.

Dorothy Dougherty

Deputy Assistant Secretary of Labor for Occupational Safety and Health

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