

developing and sustaining a VE training and capacity building initiative; monitoring, assessing, and reporting on the VE analyses conducted and VE program; participating in periodic VE program and project reviews; submitting the required annual reports to the FHWA; and support the other elements of the VE program.

§ 627.9 Conducting a VE analysis.

(a) A VE analysis should be conducted as early as practicable in the planning or development of a project, preferably before the completion of the project's preliminary design. At a minimum, the VE analysis must be conducted prior to final design.

(b) The VE analysis should be closely coordinated with other project development activities. This assessment will improve the probability of proposed VE recommendations being accepted and incorporated into the project design without conflicting with or adversely impacting previous agency, community, or environmental commitments, the project's scope, and the development of construction schedules. The analysis to be conducted should include a consideration of combining or eliminating inefficient uses of the existing facility and explore the opportunity to refine the project's design or project plans to incorporate innovative technologies, materials, or methods to accomplish the project's purpose and design.

(c) Design-build projects meeting the applicability criteria specified in 23 CFR 627.1(b) must conduct a value analysis prior to the release of the Request for Proposals document.

(d) Projects requiring a VE analysis must:

(1) Use a multi-disciplinary team not directly involved in the planning or design of the project, with at least one individual who is trained and knowledgeable in VE analysis techniques and able to serve as the team's facilitator and coordinator;

(2) Develop and implement the VE Job Plan. The analytical methodology and tools to be used in support of the VE analysis that is conducted should follow recommended industry practices and FHWA guidance to evaluate the potential benefit and impacts that may be expected to occur with the proposed VE recommendations;

(3) Produce a formal written report outlining, at a minimum:

(i) Project information;

(ii) Identification of the VE analysis team;

(iii) Background and supporting documentation, such as information obtained from other analyses conducted

on the project (e.g., environmental, safety, traffic operations, constructability);

(iv) Documentation of the stages of the VE Job Plan which would include documentation of the life-cycle costs that were analyzed;

(v) Summarization of the analysis conducted;

(vi) Documentation of the proposed recommendations and approvals received at the time the report is finalized; and

(vii) The formal written report shall be retained for at least 3 years after the completion of the project (as specified in 49 CFR 18.42).

(e) For bridge projects, in addition to the requirements in subsection (d), the VE analyses must:

(1) Include bridge substructure and superstructure requirements that consider alternative construction materials; and

(2) Be conducted based on:

(A) An engineering and economic assessment, taking into consideration acceptable designs for bridges; and

(B) Using an analysis of life-cycle costs and duration of project construction.

(f) STAs and local authorities may employ qualified consultants (as defined in 23 CFR 172.3) to conduct a VE analysis. A consulting firm or individual must not be used to conduct or support a VE analysis if they have a direct or indirect conflict of interest in connection with the subject project.

(g) VECPs. STAs and local authorities are encouraged to use a VECP clause in an applicable project's specifications and contract, allowing the construction contractor to propose changes in the project's plans, specifications, or other contract documents. The STA and local authority will consider changes that could improve the project's performance, value and quality, shorten the delivery time, or lower construction costs, while having no adverse impact on the project's overall life-cycle cost. The basis for a STA or local authority to consider a VECP is the analysis and documentation supporting the proposed benefits that would result from implementing the proposed change in the project's contract or project plans.

(h) Proposals to accelerate construction after the award of the contract will not be considered a VECP and will not be eligible for Federal-aid highway program funding participation. Where it is necessary to accelerate construction, STAs and local authorities are encouraged to use the appropriate incentive or disincentive clauses so that all proposers will take this into account

when preparing their bids or price proposals.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

[Docket No. OSHA-2010-0019]

RIN 1218-AC50

Occupational Injury and Illness Recording and Reporting Requirements—NAICS Update and Reporting Revisions

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

ACTION: Proposed rule.

SUMMARY: OSHA is proposing to update Appendix A to Subpart B of its Injury and Illness Recording and Reporting regulation. Appendix A contains a list of industries that are partially exempt from maintaining records of occupational injuries and illnesses, generally due to their relatively low rates of occupational injury and illness. The current list of industries is based on the Standard Industrial Classification (SIC) system. In 1997, the North American Industry Classification System (NAICS) was introduced to classify establishments by industry. The proposed rule would update Appendix A by replacing it with a list of industries based on NAICS and more recent injury and illness data.

The proposed rule would also require employers to report to OSHA, within eight hours, all work-related fatalities and all work-related in-patient hospitalizations; and within 24 hours, all work-related amputations. The current regulation requires an employer to report to OSHA, within eight hours, all work-related fatalities and in-patient hospitalizations of three or more employees.

DATES: *Written comments:* Comments must be submitted by September 20, 2011.

ADDRESSES: *Written comments:* You may submit comments, identified by docket number OSHA-2010-0019, or regulatory information number (RIN) 1218-AC50, by any of the following methods:

Electronically: You may submit comments electronically at <http://www.regulations.gov>, which is the Federal e-rulemaking portal. Follow the

instructions on the Web site for making electronic submissions;

Fax: If your submission, including attachments, does not exceed 10 pages, you may fax it to the OSHA docket office at (202) 693-1648; or

Mail, hand delivery, express mail, messenger, or courier service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket Number OSHA-2010-0019, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2350 (OSHA's TTY number is (877) 889-5627). Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and docket office's normal business hours, 8:15 a.m.-4:45 p.m.

Instructions for submitting comments: All submissions must include the docket number (Docket No. OSHA-2010-0019) or the RIN (RIN 1218-AC50) for this rulemaking. Because of security-related procedures, submission by regular mail may result in significant delay. Please contact the OSHA docket office for information about security procedures for making submissions by hand delivery, express delivery, and messenger or courier service.

All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <http://www.regulations.gov>. Therefore, OSHA cautions you about submitting personal information such as social security numbers and birthdates.

Docket: To read or download submissions in response to this **Federal Register** notice, go to docket number OSHA-2010-0019, at <http://www.regulations.gov>. All submissions are listed in the <http://www.regulations.gov> index, however, some information (e.g., copyrighted material) is not publicly available to read or download through that Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA docket office.

Electronic copies of this **Federal Register** document are available at <http://www.regulations.gov>. This document, as well as news releases and other relevant information, is available at OSHA's Web site at <http://www.osha.gov>.

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

For general and technical information on the proposed rule: OSHA Office of

Statistical Analysis, Room N-3641, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2400.

SUPPLEMENTARY INFORMATION: OSHA's current regulation at Section 1904.2 partially exempts certain lower-hazard industries classified in Standard Industrial Classification (SIC) codes 52 through 89 from injury and illness recordkeeping requirements. Lower hazard industries are those industries with an average Days Away, Restricted, or Transferred (DART) rate at or below 75 percent of the national average DART rate. The DART rate represents the total non-fatal injuries and illnesses resulting in days away from work, restricted work activity, and/or job transfer per 100 full-time employees for a given period of time (usually 1 year). The current list of partially exempt industries, which is included in Appendix A to Subpart B, is based on injury and illness data compiled by the Bureau of Labor Statistics (BLS) for 1997, 1998 and 1999.

OSHA is proposing to revise the list of partially exempt industries in Appendix A using the North American Industry Classification System (NAICS). The revised list in proposed Appendix A is based on DART rates compiled by BLS for 2007, 2008 and 2009. Industries listed in proposed Appendix A would still be required to keep records if requested to do so by BLS in connection with its Annual Survey (29 CFR 1904.42), or by OSHA in connection with its Data Initiative (29 CFR 1904.41).

OSHA is also proposing to revise Section 1904.39, which currently requires an employer to report to OSHA, within eight hours, all work-related fatalities and in-patient hospitalizations of three or more employees. The proposed rule would require an employer to report to OSHA, within eight hours, all work-related fatalities and all work-related in-patient hospitalizations; and within 24 hours, all work-related amputations.

This regulation was developed in accordance with the principles of Executive Order 12866 and Executive Order 13563. Executive Order 12866 requires that OSHA estimate the benefits, costs, and net benefits of proposed regulations. The Agency estimates the regulation will cost approximately \$8.5 million, on an annualized basis. As discussed elsewhere in this preamble, the Agency believes the annual benefits, while unquantified, are significantly in excess of the annual costs.

I. Legal Authority

OSHA is issuing this proposed revision of the Recordkeeping regulation pursuant to authority expressly granted by sections 8 and 24 of the Occupational Safety and Health Act (the "OSH Act" or "Act") (29 U.S.C. 657, 673). Section 8(c)(1) requires each employer to "make, keep and preserve, and make available to the Secretary [of Labor] or the Secretary of Health and Human Services, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health and Human Services, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses." Section 8(c)(2) directs the Secretary to prescribe regulations "requiring employers to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job" (29 U.S.C. 657(c)(2)). Section 8(g)(2) of the OSH Act broadly empowers the Secretary to "prescribe such rules and regulations as [s]he may deem necessary to carry out [her] responsibilities under the Act" (29 U.S.C. 657(g)(2)).

Section 24 of the OSH Act contains a similar grant of authority. It requires the Secretary to "develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics" and "compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job" (29 U.S.C. 673(a)). Section 24 also requires employers to "file such reports [of work injuries and illnesses] with the Secretary" as she may prescribe by regulation (29 U.S.C. 673(e)).

In addition, the Secretary's responsibilities under the OSH Act are defined largely by its enumerated purposes, which include "[p]roviding appropriate reporting procedures that will help achieve the objectives of this Act and accurately describe the nature of the occupational safety and health problem" (29 U.S.C. 651(b)(12)).

The OSH Act authorizes the Secretary to issue two types of occupational safety and health rules; *standards* and *regulations*. Standards, which are authorized by section 6 of the OSH Act, specify remedial measures to be taken to prevent and control employee exposure to identified occupational hazards; while regulations are the means to effectuate other statutory purposes, including the collection and discrimination of records of occupational injuries and illnesses. Courts of appeal have held that OSHA recordkeeping rules are regulations and not standards (*Louisiana Chemical Ass'n v. Bingham*, 657 F.2d 777, 782–785 (5th Cir. 1981); *Workplace Health & Safety Council v. Reich*, 56 F.3d 1465, 1467–1469 (DC Cir. 1995).

II. Summary and Explanation of the Proposed Rule

A. Section 1904.2—Partial Exemption for Establishments in Certain Industries

Background

Although the OSH Act gives OSHA the authority to require all employers covered by the Act to keep records of employee injuries and illnesses, major classes of employers are partially exempted from Part 1904. First, as provided in Section 1904.1, employers with 10 or fewer employees are partially exempt from keeping OSHA injury and illness records. Second, as provided in section 1904.2, establishments in certain lower-hazard industry classifications are also partially exempt.

The partial exemption based on lower-hazard industry classification has been part of the OSHA recordkeeping regulations since 1982. OSHA exempted establishments in a number of service, finance, and retail industries from the duty to regularly maintain the OSHA Log and Incident Report (47 FR 57699). This industry exemption to recordkeeping requirements was intended to “reduce paperwork burden on employers without compromising worker safety and health.” See, 47 FR 57700.

The 1982 list of partially exempt industries was established by identifying major industry groups with relatively low rates of occupational injuries and illnesses in the SIC codes encompassing retail trade, finance, insurance and real estate, and the service industries (SICs 52–89). Major industry groups were defined at the 2-digit classification level from the SIC manual published by the U.S. Office of Management and Budget (OMB). Industries in these major industry groups were partially exempted from coverage by Part 1904 if their average

lost workday injury (LWDI) rate for 1978–80 was at or below 75 percent of the overall private sector annual LWDI rate. Industries that involved more serious occupational hazards, comprising the industry divisions of agriculture, construction, manufacturing, utilities, mining, and wholesale trade, remained subject to the full recordkeeping requirements. Although the 1982 **Federal Register** notice discussed the possibility of revising the exempt industry list on a routine basis, the list remained unchanged until 2001.

On January 19, 2001, OSHA published a final rule (66 FR 5916) which comprehensively revised the Part 1904 recordkeeping regulations. As part of this revision, OSHA updated the list of lower-hazard industries that are partially exempted from the recordkeeping requirements. The list of lower-hazard industries established in the 2001 final rule is the current list set forth in Appendix A to Subpart B.

The 2001 final rule updated the 1982 list of industries by applying the same approach for identifying affected industries. Industries were selected for the list based on two criteria. First, only industries classified in SIC codes 52 through 89 were considered eligible for inclusion on the list. Second, industries were included if they had an average DART rate, based on the most recent three years of available data, at or below 75 percent of the most recent national rate. The 2001 list differed from the 1982 list in two respects: (1) The injury/illness rate data supporting the final rule’s industry exemption were based on BLS statistics for 1996, 1997, and 1998, and (2) the industries were defined at the 3-digit rather than 2-digit SIC code level.

The issue of converting from SIC to NAICS codes was addressed in the 2001 rulemaking (66 FR 5916). Although the NAICS had been formally adopted by 2001, several statistical agencies had not converted their systems to the new codes. In fact, BLS did not publish its first occupational injury and illness rates using the NAICS codes until 2004, when it published the rates for calendar year 2003. As a result, OSHA stated in the preamble to the 2001 final rule that it used the SIC system to determine the list of partially exempted industries. The agency also stated its intention to conduct a future rulemaking to update the list using NAICS codes. (66 FR 5944).

Presently, NAICS is the standard system used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing

statistical data related to the U.S. economy. NAICS was developed under the auspices of OMB, and adopted in 1997 to replace the SIC system. It was developed jointly by the United States, Canada, and Mexico to allow for a high level of compatibility in business statistics among the North American countries.

The official 2007 U.S. NAICS Manual includes definitions for each industry, background information, tables showing changes between 2002 and 2007, and a comprehensive index. The official 2007 NAICS Manual is available in print and CD Rom from the National Technical Information Service (NTIS) at (800) 553–6847, or through the NTIS Web site at <http://www.ntis.gov>.

Description of Proposed Revisions

OSHA proposes to update Appendix A to Subpart B in two ways. First, the list of partially exempted industries would be converted from one based on SIC codes to one based on NAICS codes. Second, the DART rates used to determine which NAICS code industries qualify for the lower-hazard partial exemption would be based on more recent BLS data.

Consistent with OSHA’s longstanding policy, individual industry classifications in major industry sectors generally considered to involve greater occupational hazards, are not included on the proposed partially exempt list. As with the current regulation, industries ineligible for the partial exemption under the proposed rule include those in the agriculture, utilities, construction, manufacturing, and wholesale trade sectors.

For industries in the remaining sectors, the most recent three years (2007, 2008 and 2009) of available BLS data were used to calculate the average rate of serious injuries and illnesses for each industry, as represented by the DART rate. Industries with an average DART rate equal to or less than 75 percent of the average national DART rate from 2007 through 2009 are included on the list of partially exempt lower-hazard industries in proposed Appendix A, with one exception.

Under the existing regulation, establishments in Personnel Supply Services (SIC 736) are currently required to maintain injury and illness logs; this industry is not included in the existing Appendix A. For many employees working for establishments in this industry, their actual place of work may be in an establishment that is part of another industry. OSHA is proposing that establishments in the corresponding NAICS industry, NAICS 5613 Employment Services, continue to

be required to maintain logs for the employees under their supervision as they are currently required to do. Thus, NAICS 5613 Employment Services is not included in the proposed Appendix A.

According to the data published by BLS, the average national private sector DART rate for 2007–2009 was 2.0. Thus, specific industries, as defined by 4-digit NAICS codes, which had an average DART rate for 2007–2009 of 1.5 or less,

and which are in the eligible broad industry sectors, were included in the list in proposed Appendix A (except NAICS 5613 Employment Services).

The industries included in proposed Appendix A were identified as follows.

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

| NAICS Code | Industry |
|------------|--|
| 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. |

For a more thorough discussion regarding the specific industries which would be newly exempted or newly covered by the proposed rule, please refer to Section III of this preamble.

This rulemaking also fulfills a commitment made by OSHA to the Government Accountability Office (GAO). In October 2009, GAO published a report entitled: "Enhancing OSHA's Records Audit Process Could Improve the Accuracy of Worker Injury and Illness Data" (GAO-10-10). One of the recommendations made by GAO was to update the list of industries used by OSHA to select worksites for records audits. In its response to GAO, OSHA agreed to conduct a rulemaking that would update the coverage of the relevant recordkeeping requirements from the old SIC-based system to one based on the NAICS codes.

In conjunction with any final rule resulting from this rulemaking that may result in some establishments being newly required to comply with OSHA recordkeeping requirements, OSHA will conduct outreach and training, and offer other types of compliance assistance, to facilitate compliance and help ensure more complete and accurate recording and reporting. OSHA welcomes suggestions from the public regarding the types of outreach, training, and assistance that would be particularly helpful.

Issues and Potential Alternatives

OSHA welcomes comments and data from the public regarding any aspect of the proposed lower-hazard industry

partial exemption. More specifically, the following questions and issues are relevant to this rulemaking:

1. Should any additional industries be exempt from any of the recordkeeping requirements in Part 1904?

2. Should OSHA base partial exemptions on more detailed or more aggregated industry classifications, such as two-digit, three-digit, or six-digit NAICS codes?

3. Which industry sectors, if any, should be ineligible for partial exemption?

4. Instead of using an average DART rate of 75 percent of the most recent national DART rate, is there a better way to determine which industries should be included in Appendix A?

5. Should OSHA consider numbers of workers injured or made ill in each industry in addition to industry injury/illness rates in determining eligibility for partial exemption?

6. Are there any other data that should be applied as additional or alternative criteria for purposes of determining eligibility for partial exemption?

7. Should OSHA regularly update the list of lower-hazard exempted industries? If so, how frequently should the list be updated?

8. Are there any specific types of training, education, and compliance assistance OSHA could provide that would be particularly helpful in facilitating compliance with the recordkeeping requirements?

B. Section 1904.39—Reporting Fatality, In-Patient Hospitalization, and Amputation Incidents to OSHA

Background

Virtually since its inception, OSHA has required employers to report certain incidents involving employee fatality or hospitalization. The regulatory requirements adopted in 1971 in 29 CFR 1904.8 required employers to report, within 48 hours after the occurrence, work-related incidents resulting in at least one fatality or the hospitalization of at least five employees.

In 1994, the Agency revised its reporting requirements to require employers to report to OSHA, within eight hours, work-related events or exposures involving fatalities or the inpatient hospitalization of three or more employees (59 FR 15594). OSHA stated in the preamble to the final rule that more prompt reporting enables OSHA to inspect the site of the incident and interview personnel while their recollections are immediate, fresh and untainted by other events, thus providing more timely and accurate information about possible causes of the incident. See, 59 FR 15595. The requirements from the 1994 rulemaking have remained substantially unchanged since then, and are currently codified at 29 CFR 1904.39.

Description of Proposed Revisions

The proposed rule would require employers to report to OSHA, within eight hours, work-related incidents that result in the death of an employee or in

the in-patient hospitalization of one or more employees, and within 24 hours, a work-related amputation suffered by an employee. The proposed revision is intended to provide information necessary to help ensure America's workers have safe and healthful workplaces.

Prompt investigation of incidents causing serious injury is a key element in OSHA's ability to enforce existing standards, evaluate the effectiveness of current standards, and identify a need for new standards. OSHA believes that the eight-hour requirement for work-related fatalities, the eight-hour requirement for work-related in-patient hospitalizations, and the 24-hour requirement for amputations will enable the additional potential benefits of reporting to be realized without creating unreasonable burdens on employers.

Making all in-patient hospitalizations and amputations reportable will provide OSHA with additional information on the causes of workplace incidents and lead to greater prevention of injuries. The additional information would be obtained cost-effectively, involve relatively minimal burdens on employers, and would provide OSHA with critical information to facilitate the timely investigation of harmful incidents and quick mitigation of hazards. The information will also help OSHA target scarce resources to the most dangerous workplaces and to prevent future injuries at these workplaces.

OSHA believes that the value of this additional information easily justifies the relatively minor additional reporting burden estimated to be an average of 15 minutes per reported incident. See Section III of this preamble for a more detailed discussion of the estimated compliance costs.

The hospitalization of a worker due to a work-related incident is a serious and significant event. Requiring the reporting of every in-patient hospitalization would ensure that OSHA will be informed about many more of these serious occurrences. Greater awareness regarding the extent and nature of such cases helps in the development and prioritization of various OSHA enforcement programs and initiatives. It also serves the public interest by enabling OSHA to more effectively and efficiently target occupational safety and health hazards.

Another benefit associated with the expansion of the reporting requirements would be the increased value and utility of the resulting data. Incidents involving an in-patient hospitalization or an amputation often involve serious hazards. The proposed reporting

requirements would help establish a comprehensive database that would more accurately reflect hazards that cause hospitalizations and amputations as well as identify the associated industries, processes, and other relevant factors. Such a database could prove especially useful for study and research into the causes and prevention of occupational hazards.

For purposes of OSHA recordkeeping, in-patient hospitalization occurs when a person is "formally admitted" to a hospital or clinic for at least one overnight stay. Out-patient treatment generally refers to patients that are seen by a physician or other licensed health care professional and leave the hospital the same day. Of course, in order for in-patient hospitalization to be reportable, the injury or illness must be work-related as defined by Section 1904.5.

The proposed reporting requirements would apply only to work-related deaths, in-patient hospitalizations, and amputations occurring within 30 days of a work-related incident. As provided in proposed paragraph (b)(7) of section 1904.39, employers would generally not be required to report fatalities, hospitalizations, or amputations of which they were not aware.

The proposed addition of amputations to the reporting requirements would ensure that these incidents involving serious injury are promptly reported. Amputations include some of the most serious types of injuries and tend to result in a greater number of lost workdays than most other injuries. According to data available from BLS for 2008, the median number of days away from work for all injuries involving days away from work was 8, while the median number of days away from work for amputations was 26. Furthermore, amputations differ from other types of serious injuries because they tend to have long-term or permanent consequences. Although information reported regarding amputations will not necessarily result in an inspection, OSHA can use this information to better target inspections to workplaces with serious hazards in order to prevent any further workplace injuries. Thus, the benefits associated with the reporting of amputations would be comparable to those associated with the reporting of hospitalizations.

For purposes of classifying occupational injuries and illnesses, amputations are defined by the Bureau of Labor Statistics in their Occupational Injury and Illness Classification Manual. An amputation is the traumatic loss of a limb or other external body part, including a fingertip. In order for an

injury to be classified as an amputation, bone must be lost. Amputations include loss of a body part due to a traumatic incident, a gunshot wound, and medical amputations due to irreparable traumatic injuries. Amputations exclude traumatic injuries without bone loss and exclude enucleation (eye removal). A reportable amputation under the proposed rule would include those that occur at the workplace as well as those that occur in a hospital as a result of a work-related event.

The proposed reporting requirements would generally bring OSHA requirements more in line with those of other types of safety and health investigations. Federal regulations require aircraft pilots or operators to notify the National Transportation Safety Board (NTSB) of aviation accidents, certain incidents, and the occurrence of a variety of other conditions or events. The Federal Railroad Administration (FRA) requires railroads to report whenever they learn of the occurrence of anything on a list of types of accidents, incidents, events, or exposures.

In some states that administer their own occupational safety and health regulations, elements similar to this proposed regulation are already being enforced. For example, California requires employers to report any employee death or serious injury or illness. The phrase "serious injury or illness" includes the in-patient hospitalization of an employee, as well as when an employee suffers the loss of any part of the body. Alaska and Washington require notification when at least one employee is fatally injured or requires in-patient hospitalization. Utah requires notification of any disabling, serious, or significant injury, and of any occupational disease incident. In Kentucky, employers are required to report work-related incidents that result in the hospitalization of at least one employee, or in an amputation. In Oregon, incidents resulting in at least one employee needing overnight hospitalization for medical treatment are required to be reported.

Issues and Potential Alternatives

OSHA requests comments on the potential benefits and burdens associated with the proposed revisions to the reporting requirements in Section 1904.39. As noted above, under current state regulations, many businesses are already required to make reports of work-related incidents resulting in death or serious injury, and many more are already required to report all work-related in-patient hospitalizations and amputations within eight hours.

OSHA welcomes comments and data from the public regarding any aspect of the proposed reporting requirements. More specifically, the following questions and issues are relevant to this rulemaking:

1. What types of incidents and/or injuries and illnesses should be reported to OSHA and why?
2. Are there any injuries, illnesses, or conditions that should be reported to OSHA and are not included among in-patient hospitalizations?
3. Should amputations that do not result in in-patient hospitalizations be reported to OSHA?
4. Should OSHA require the reporting of all amputations?
5. Should OSHA require the reporting of enucleations?
6. Are there additional data or estimates available regarding the number of work-related incidents involving in-patient hospitalizations? Is there information available on how many work-related hospitalizations occur more than 30 days after the report of an injury or illness?
7. Should OSHA allow reports to be made by means other than a telephone, such as by e-mail, fax, or a Web-based system?
8. Are the reporting times of eight hours for fatalities, eight hours for in-patient hospitalizations, and 24 hours for amputations generally appropriate time periods for requiring reporting? What advantages or disadvantages would be associated with these or any alternative time periods?

III. Preliminary Economic Analysis and Regulatory Flexibility Certification

This proposed rule is not a "significant regulatory action" within the context of Executive Order 12866 or the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1532(a)), or a "major rule" under the Congressional Review Act (5 U.S.C. 801 *et seq.*). This rulemaking has net costs of \$8.5 million and costs between \$50 and \$100 per affected establishment. Thus, this rulemaking imposes far less than \$100 million in annual costs on the economy, and does not meet any of the other criteria specified for a significant regulatory action or major rule in Executive Order 12866, the UMRA or the Congressional Review Act.

This Preliminary Economic Analysis (PEA) addresses the costs, benefits, and economic impacts of the proposed rule. The proposed rule and the PEA were developed in accordance with the principles of Executive Order 12866 and Executive Order 13563. The proposed rule would make two changes to the existing recording and reporting

requirements in Part 1904. It would change which industries are partially exempted from keeping records and would change the requirements for reporting certain work-related injuries. The affected establishments are only partially exempt because BLS may require any establishment to respond to its survey. The costs to those firms required to respond to the BLS survey are covered in the BLS survey paperwork package.

The existing regulation partially exempts all employers with 10 or fewer employees and all establishments in specific lower-hazard industry sectors from routinely keeping OSHA records. The existing industry partial exemptions were determined by identifying industries with relatively low DART rates at the 3-digit SIC code level. This proposed rule would retain the partial exemption for employers with 10 or fewer employees. It also would update the list of partially exempted industries to reflect the latest data on DART rates and to convert the industry classifications to the NAICS classification system. These changes would lead to new costs for employers who are currently partially exempt from recordkeeping requirements but would be newly required to keep records; there would also be cost savings for employers who would no longer be required to keep records.

The existing rule requires that all work-related fatalities and work-related incidents involving three or more hospitalizations be reported to OSHA within eight hours. The proposed rule would retain the requirement that all fatalities be reported to OSHA within eight hours and would require that all work-related in-patient hospitalizations be reported to OSHA within eight hours and that all work-related amputations be reported to OSHA within 24 hours. The proposed rule would thus increase the number of incidents that are to be reported to OSHA.

The remaining sections of this PEA provide estimates of the establishments that would be newly required to keep records or would be newly partially exempt from keeping records, and estimates of the numbers of reports of in-patient hospitalizations or amputations that would be required (the industrial profile section); the costs and costs savings associated with the proposed requirements; the benefits of the proposed rule; and the economic and small business impacts of the proposed changes.

Industrial Profile

The purpose of this industrial profile section is to provide information about

which industries would be affected by the proposed rule, the number of affected establishments in each affected industry, employment in establishments affected by the proposed rule, and estimates of the numbers of in-patient hospitalizations and amputations that would be required to be reported by the proposed rule. (There is no need to estimate the number of fatalities to be reported as current regulations already require the reporting of fatalities.)

Partial Exemption

In regards to the partial exemption for certain lower hazard industries, OSHA identified which establishments would be newly required to keep records, and which establishments would be newly partially exempt from keeping records. This identification was complicated by the fact that the current rule classifies employers by SIC codes, a classification system dating to the 1930s which is no longer used in government statistics. OSHA had to convert employers classified by SIC code to the newer NAICS codes. In many cases, a single SIC code was divided into several NAICS codes, and conversely, a single NAICS code might contain establishments from multiple SIC codes. This analysis was conducted at the six-digit NAICS level. The data resulting from this analysis at the six-digit NAICS level are presented in the Appendix to this Preliminary Economic Analysis.

To identify those employers that would no longer be partially exempt from OSHA recordkeeping requirements under the proposed rule, OSHA examined the 1997 Economic Census: Bridge between SIC and NAICS Tables (<http://www.census.gov/epcd/naics02/S87TON02.HTM>). These tables show, for 1997, the best available data on what percentage of the establishments in each SIC code transferred into each NAICS code. Affected establishments in an SIC code exempted under the existing rule but classified in a non-exempted NAICS code under the proposed rule would be newly subject to the recordkeeping requirements. These establishments, not exempted under the proposed rule, would incur new recordkeeping costs.

Having used the bridge table to identify the portions of the industries by 6-digit NAICS code that would be newly required to keep records, OSHA used 2006 County Business Patterns to determine the corresponding numbers of establishments and employees (http://www2.census.gov/econ/susb/data/2006/us_6digitnaics_2006.xls). This data source provides not only the total number of establishments and employees in an industry, but also a breakdown of employees and

establishments by the size of the firm that owns the establishment. These data permit a straightforward calculation of the number of establishments with 10 or more employees. However, both the current and proposed rules cover employers with 11 or more employees. To deduct those employers with exactly 10 employees, OSHA estimated that employers with exactly ten employees represent one tenth of all employers with between 10 and 19 employees. This approach will overestimate the number of covered firms because there tend to be a more than proportional number of firms at smaller size classes.

OSHA then estimated the number of affected establishments and employees in each industry by multiplying the total number of establishments and employees in the industry by the percentage of affected establishments that were identified using the SIC—NAICS bridge tables as described above.

OSHA then estimated the number of newly recordable injuries and illnesses by dividing the number of injuries and

illness recorded per industry by BLS in 2006 (BLS <http://www.bls.gov/iif/oshbulletin2006.htm>) by the total employment in the industry, and multiplied the resulting rate by the number of affected employees in the industry as derived using the 1997 SIC—NAICS bridge tables. OSHA used BLS data at the four-digit NAICS level since more detailed injury and illness data were not available for all NAICS codes.

Table III–1 presents data for the industries with establishments that would be newly required to keep records. The table shows the four-digit NAICS code, industry name, the number of affected establishments, the number of affected employees, and an estimate of the number of recordable injuries and illnesses, based on historical data, for newly affected employers. OSHA estimates that as a result of the proposed rule's revision to partial exemptions, 199,000 establishments with 5.3 million employees not previously required to record injuries would need to do so and

that those establishments are would record an estimated 173,000 injuries and illnesses per year.

Having used the bridge table to identify the portions of the NAICS code industries that would be newly required to keep records, OSHA used the same methodology and data sources described above to determine the number of establishments, employees, and injuries and illnesses for establishments who would no longer be required to regularly keep records. Table III–2 shows the four-digit NAICS code, industry name, number of affected establishments, number of affected employees, and the estimated number of injuries and illnesses that would no longer be recorded in each affected industry. OSHA estimates that as a result of the revision to the list of partially exempt industries, 119,000 establishments with 4.0 million employees and an estimated 76,000 injuries and illnesses per year would no longer need to keep records regularly.

TABLE III–1—INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | Title of NAICS Code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|-------------|---|---------------------|-------------------------|----------------|----------------------------------|
| 3118 | Bakeries and Tortilla Manufacturing | 42,294 | 1,932 | 1,766 | 571 |
| 4411 | Automobile Dealers | 1,204,566 | 23,351 | 19,156 | 48,989 |
| 4413 | Automotive Parts, Accessories, and Tire Stores | 5,207 | 426 | 84 | 204 |
| 4441 | Building Material and Supplies Dealers | 260,363 | 21,310 | 4,215 | 18,577 |
| 4452 | Specialty Food Stores | 88,133 | 7,339 | 3,044 | 2,759 |
| 4453 | Beer, Wine, and Liquor Stores | 69,011 | 6,109 | 2,878 | 2,356 |
| 4539 | Other Miscellaneous Store Retailers | 160,152 | 11,505 | 4,301 | 4,611 |
| 4543 | Direct Selling Establishments | 1,569 | 69 | 43 | 67 |
| 5313 | Activities Related to Real Estate | 490,941 | 19,341 | 9,881 | 13,864 |
| 5322 | Consumer Goods Rental | 130,839 | 14,186 | 1,158 | 1,114 |
| 5324 | Commercial and Industrial Machinery and Equipment Rental and Leasing. | 13,963 | 807 | 295 | 676 |
| 5419 | Other Professional, Scientific, and Technical Services. | 249,160 | 10,889 | 3,770 | 1,853 |
| 5612 | Facilities Support Services | 162,384 | 3,293 | 865 | 8,955 |
| 5617 | Services to Buildings and Dwellings | 2,140 | 104 | 50 | 134 |
| 5619 | Other Support Services | 308,984 | 6,238 | 4,152 | 8,150 |
| 6219 | Other Ambulatory Health Care Services | 105,656 | 2,688 | 859 | 5,734 |
| 6241 | Individual and Family Services | 995,856 | 30,230 | 15,915 | 20,988 |
| 6242 | Community Food and Housing, and Emergency and Other Relief Services. | 138,272 | 7,369 | 4,258 | 3,536 |
| 7111 | Performing Arts Companies | 116,043 | 1,994 | 1,864 | 4,483 |
| 7113 | Promoters of Performing Arts, Sports, and Similar Events. | 93,738 | 1,183 | 973 | 2,421 |
| 7121 | Museums, Historical Sites, and Similar Institutions. | 77,933 | 1,610 | 1,352 | 2,860 |
| 7139 | Other Amusement and Recreation Industries | 73,447 | 2,912 | 2,244 | 1,254 |
| 7223 | Special Food Services | 510,294 | 22,379 | 3,802 | 18,164 |
| 8129 | Other Personal Services | 42,254 | 1,498 | 1,117 | 914 |
| Total | | 5,343,199 | 198,763 | 88,040 | 173,233 |

Source: OSHA, Office of Regulatory Analysis.

Source: 2006 County Business Patterns: http://www2.census.gov/econ/susb/data/2006/us_6digitnaics_2006.xls.

Source: 2006 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. <http://www.bls.gov/iif/oshwc/osh/os/osnr0028.pdf>.

TABLE III-2: INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM KEEPING RECORDS

| NAICS Code | Title of NAICS Code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|------------|--|---------------------|-------------------------|----------------|----------------------------------|
| 4412 | Other Motor Vehicle Dealers | 80,441 | 3,794 | 2,594 | 3,757 |
| 4431 | Electronics and Appliance Stores | 66,902 | 3,699 | 1,702 | 1,538 |
| 4461 | Health and Personal Care Stores | 15,620 | 1,440 | 425 | 244 |
| 4471 | Gasoline Stations | 128,972 | 12,220 | 2,575 | 3,634 |
| 4511 | Sporting Goods, Hobby, and Musical Instrument Stores. | 1,271 | 65 | 16 | 37 |
| 4532 | Office Supplies, Stationery, and Gift Stores. | 98,855 | 4,626 | 873 | 2,160 |
| 4812 | Nonscheduled Air Transportation | 37,807 | 763 | 580 | 855 |
| 4861 | Pipeline Transportation of Crude Oil | 7,472 | 352 | 35 | 175 |
| 4862 | Pipeline Transportation of Natural Gas | 22,080 | 1,303 | 68 | 510 |
| 4869 | Other Pipeline Transportation | 9,348 | 881 | 51 | 219 |
| 4879 | Scenic and Sightseeing Transportation, Other. | 2,155 | 45 | 39 | 80 |
| 4885 | Freight Transportation Arrangement | 166,549 | 7,126 | 2,709 | 3,045 |
| 5111 | Newspaper, Periodical, Book, and Directory Publishers. | 654,211 | 10,912 | 4,896 | 16,037 |
| 5122 | Sound Recording Industries | 14,059 | 426 | 197 | 206 |
| 5151 | Radio and Television Broadcasting | 251,523 | 7,186 | 2,084 | 4,931 |
| 5172 | Wireless Telecommunications Carriers (except Satellite). | 236,243 | 10,087 | 530 | 2,274 |
| 5173 | Telecommunications Resellers | 27,652 | 800 | 533 | 499 |
| 5179 | Other Telecommunications | 9,365 | 204 | 104 | 191 |
| 5181 | Internet Service Providers and Web Search Portals. | 20,957 | 210 | 157 | 174 |
| 5191 | Other Information Services | 10,406 | 211 | 96 | 164 |
| 5221 | Depository Credit Intermediation | 81,130 | 5,063 | 356 | 640 |
| 5239 | Other Financial Investment Activities | 8,158 | 115 | 77 | 19 |
| 5241 | Insurance Carriers | 8,946 | 251 | 55 | 63 |
| 5259 | Other Investment Pools and Funds | 20,268 | 924 | 226 | 129 |
| 5413 | Architectural, Engineering, and Related Services. | 31,953 | 1,144 | 1,008 | 508 |
| 5416 | Management, Scientific, and Technical Consulting Services. | 80,566 | 1,651 | 927 | 440 |
| 5418 | Advertising and Related Services | 48,061 | 1,096 | 764 | 691 |
| 5511 | Management of Companies and Enterprises. | 1,015,532 | 14,229 | 6,983 | 20,526 |
| 5614 | Business Support Services | 166,454 | 2,937 | 2,172 | 1,868 |
| 5615 | Travel Arrangement and Reservation Services. | 167,398 | 7,106 | 2,054 | 1,385 |
| 5616 | Investigation and Security Services | 6,361 | 386 | 332 | 148 |
| 6116 | Other Schools and Instruction | 49,500 | 2,142 | 1,961 | 372 |
| 7213 | Rooming and Boarding Houses | 6,313 | 350 | 280 | 60 |
| 8112 | Electronic and Precision Equipment Repair and Maintenance. | 61,789 | 2,047 | 1,182 | 1,179 |
| 8114 | Personal and Household Goods Repair and Maintenance. | 42,582 | 2,131 | 1,146 | 1,163 |
| 8122 | Death Care Services | 24,515 | 1,730 | 551 | 606 |
| 8134 | Civic and Social Organizations | 131,301 | 4,233 | 3,141 | 2,473 |
| 8139 | Business, Professional, Labor, Political, and Similar Organizations. | 148,056 | 5,490 | 4,648 | 2,788 |
| Total | | 3,960,772 | 119,374 | 48,123 | 75,787 |

Source: OSHA, Office of Regulatory Analysis.

Source: 2006 County Business Patterns: http://www2.census.gov/econ/subs/data/2006/us_6digitnaics_2006.xls.

Source: 2006 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. <http://www.bls.gov/iif/oshwc/osh/os/osnr0028.pdf>.

Reporting of Fatalities, In-Patient Hospitalizations and Amputations

The proposed rule would require employers to report all work-related in-patient hospitalizations and amputations to OSHA. This requirement would affect all industries, all employers, and all 7.5 million

establishments in OSHA's jurisdiction. Because OSHA already requires the reporting of work-related fatalities, this economic analysis focuses on the proposed new requirement for reporting all work-related in-patient hospitalization and amputations. The current regulation also requires the

reporting of hospitalizations of three or more workers. The number of such multiple hospitalizations represents a trivial portion of all in-patient hospitalizations (For example, in Fiscal Year 2010, there were a total of 14 such reports. http://www.osha.gov/dep/fatcat/fatcat_regional_rpt_

09252010.html). OSHA therefore proceeded to estimate the total number of work-related in-patient hospitalizations without deducting the number of multiple hospitalizations that already must be reported.

It is difficult to estimate the number of in-patient hospitalizations that would need to be reported under the proposed rule. NIOSH has estimated that in 2004, a total of 68,000 work-related Emergency Department visits resulted in hospitalization (MMWR Weekly, April 27 2007 (56(16):393–397—“Nonfatal Occupational Injuries and Illnesses—United States, 2004” <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5616a3.htm> (Note: no author given). By contrast, Dembe *et al* (Dembe AE, Mastroberti MA, Fox SE, Bigelow C, Banks SM. Inpatient hospital care for work-related injuries and illnesses. *Am J Ind Med.* 2003 Oct; 44(4):331–42.) estimate that from 1997 to 1999 there were 210,000 in-patient hospital admissions per year paid for by workers’ compensation insurance. More recent studies in Massachusetts (1996–2001) and Louisiana (1998–2007) come up with figures ranging from 150,000 to 275,000 per year when extrapolated to the nation as a whole.

One possible reconciliation for these different estimates of work-related hospitalizations is that many workers’ compensation-related hospitalizations are not emergencies but are scheduled or planned hospitalizations. This possibility is supported by the fact that musculoskeletal disorders represent only 10 percent of work-related emergency room hospitalizations in the NIOSH emergency department data, but 34 to 45 percent of hospitalizations that are paid for by workers’ compensation insurance according to the workers’ compensation related studies. If many of these hospitalizations are scheduled hospitalizations, they may not need to be reported as Section 1904.39 does not require reporting of fatalities, hospitalizations or amputations that occur more than 30 days after an incident has occurred. However, the rule would require the reporting of in-patient hospitalizations occurring within 30 days of the original event. Nevertheless, OSHA will use 210,000 hospitalizations per year as a preliminary estimate for purposes of examining the costs of this rule. OSHA solicits comment on the best ways to determine how many in-patient hospitalizations will fall within the scope of the proposed rule.

According to BLS, in 2008 there were 6,230 amputations that involved days away from work (<http://www.bls.gov/iif/oshwc/osh/case/osnr0033.pdf>). The

more serious amputation cases will clearly require in-patient hospitalization. Because amputations frequently require hospitalization and because OSHA believes that the estimated 210,000 in-patient hospitalization reports are an overestimate of the reports that would be required by the proposed rule, OSHA believes its estimate of 210,000 reports is adequate to account for reports of both in-patient hospitalizations and amputations. OSHA solicits comment on this estimate and on potential ways to improve its accuracy.

Costs

This section presents estimates of the costs and cost savings of the proposed rule. The time requirements for the activities associated with the proposed rule have been developed through previous rulemakings and information collection requests that have been subject to extensive notice and comment. For the purposes of the analysis of the costs of this proposed rule, OSHA relied on past estimates of the time requirements for record keeping activities. (The specific past estimate relied on is cited for each time requirement estimate.)

The time requirements for various activities are estimated as follows:

Initial training of recordkeepers: one hour per establishment, applies only to currently exempt establishments that would be newly required to keep records (based on the Final Economic Analysis for the Occupational Injury and Illness Recording and Reporting Requirements, published January 19, 2001, FR 66:5916–6135).

Training of recordkeepers to account for turnover: one hour per establishment and a turnover rate of 20 percent a year resulting in an average of 0.2 hours per establishment per year. This applies to costs for currently exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records (based on the Final Economic Analysis for the Occupational Injury and Illness Recording and Reporting Requirements, published January 19, 2001, FR 66:5916–6135).

Completing, posting, and certifying OSHA Form 300A: 0.97 hours per establishment. This applies to costs for currently exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records (2008 ICR, SS 1218–0176 (1–17–08)).

Completing entries on all forms for each recordable injury and illness,

accounting for privacy concerns, and providing access to records: 0.38 hours per recordable injury or illness. This applies to costs for currently exempt establishments that would be newly required to keep records and to cost savings for establishments that would no longer be required to keep records (2008 ICR, SS 1218–0176 (1–17–08)).

Reporting in-patient hospitalizations or amputations: 0.25 hours per fatality or hospitalization. (2008 ICR, SS 1218–0176 (1–17–08)).

As in OSHA’s PEA for the MSD column proposed rule (**Federal Register**: March 9, 2010 Volume 75, Number 45, pages 10738–10739), OSHA estimated that recordkeeping tasks will most commonly be performed by a Human Resource, Training, and Labor Relations Specialist, not elsewhere classified (Human Resources Specialist). The BLS Occupational Employment Survey (OES) indicated that in May 2008, Human Resources Specialists earned a mean hourly wage of \$28 (BLS OES, 2009), with an annual salary of approximately \$56,000 per year. In June 2009, the BLS National Compensation Survey indicated a mean fringe benefit factor of 1.43 for civilian workers in general. This brings the total hourly compensation (including wages and benefits) to \$40.04 for Human Resources Specialists. OSHA recognizes that there is significant diversity among firms in who is charged with OSHA recordkeeping responsibilities. Smaller firms may have a bookkeeper perform this function while larger firms may use an occupational safety and health specialist. However, OSHA believes that the hourly cost of \$40.04 is a reasonable estimate of the costs for the typical recordkeeper. OSHA welcomes comments on the issue of hourly compensation costs for typical recordkeepers.

Given the unit time requirements, hourly wages, the numbers of establishments and the injury and illness totals presented in Table III–1, Table III–3 shows OSHA’s estimates of the costs of the proposed rule for those currently partially exempt employers who would need to keep records as a result of the proposed rule. The expected annualized cost of the rule to those employers is \$13.1 million per year with the most expensive element being the completion, certification, and posting of the Form 300A with costs of \$7.7 million per year. The highest cost single industry is new automobile dealers.

Given the unit time requirements, hourly wages, the number of establishments and the injury and illness totals presented in Table III–2,

Table III-4 shows OSHA's estimates of the cost savings of the proposed rule for those employers who would no longer need to keep records as a result of the proposed rule. OSHA estimates that the total cost savings for these employers would be \$6.7 million per year.

TABLE III-3—ANNUALIZED COSTS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | NAICS Industry description | Learning new recordkeeping system | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Total costs to industries newly required to keep records |
|------------|--|-----------------------------------|---|---|--|--|
| 3118 | Bakeries and Tortilla Manufacturing | \$11,014 | \$15,471 | \$75,037 | \$8,683 | \$110,205 |
| 4411 | Automobile Dealers | 133,116 | 186,991 | 906,905 | 745,372 | 1,972,385 |
| 4413 | Automotive Parts, Accessories, and Tire Stores | 2,430 | 3,413 | 16,553 | 3,108 | 25,503 |
| 4441 | Building Material and Supplies Dealers | 121,482 | 170,648 | 827,643 | 282,648 | 1,402,421 |
| 4452 | Specialty Food Stores | 41,837 | 58,769 | 285,031 | 41,981 | 427,618 |
| 4453 | Beer, Wine, and Liquor Stores | 34,824 | 48,918 | 237,251 | 35,842 | 356,834 |
| 4539 | Other Miscellaneous Store Retailers | 65,588 | 92,133 | 446,844 | 70,153 | 674,719 |
| 4543 | Direct Selling Establishments | 394 | 554 | 2,686 | 1,016 | 4,650 |
| 5313 | Activities Related to Real Estate | 110,259 | 154,883 | 751,181 | 210,948 | 1,227,271 |
| 5322 | Consumer Goods Rental | 80,874 | 113,604 | 550,982 | 16,955 | 762,414 |
| 5324 | Commercial and Industrial Machinery and Equipment Rental and Leasing | 4,601 | 6,463 | 31,344 | 10,283 | 52,690 |
| 5419 | Other Professional, Scientific, and Technical Services | 62,076 | 87,200 | 422,919 | 28,193 | 600,388 |
| 5612 | Facilities Support Services | 18,773 | 26,371 | 127,900 | 136,245 | 309,289 |
| 5617 | Services to Buildings and Dwellings | 595 | 836 | 4,053 | 2,032 | 7,516 |
| 5619 | Other Support Services | 35,561 | 49,953 | 242,274 | 124,010 | 451,798 |
| 6219 | Other Ambulatory Health Care Services | 15,321 | 21,522 | 104,383 | 87,247 | 228,474 |
| 6241 | Individual and Family Services | 172,337 | 242,084 | 1,174,109 | 319,340 | 1,907,869 |
| 6242 | Community Food and Housing, and Emergency and Other Relief Services | 42,010 | 59,013 | 286,211 | 53,803 | 441,037 |
| 7111 | Performing Arts Companies | 11,367 | 15,967 | 77,441 | 68,206 | 172,981 |
| 7113 | Promoters of Performing Arts, Sports, and Similar Events | 6,744 | 9,474 | 45,947 | 36,840 | 99,005 |
| 7121 | Museums, Historical Sites, and Similar Institutions | 9,181 | 12,896 | 62,546 | 43,514 | 128,137 |
| 7139 | Other Amusement and Recreation Industries | 16,602 | 23,322 | 113,110 | 19,087 | 172,121 |
| 7223 | Special Food Services | 127,578 | 179,211 | 869,174 | 276,368 | 1,452,331 |
| 8129 | Other Personal Services | 8,540 | 11,996 | 58,182 | 13,905 | 92,623 |
| Totals | | 1,133,105 | 1,591,692 | 7,719,704 | 2,635,779 | 13,080,280 |

Source: OSHA, Office of Regulatory Analysis.

TABLE III-4—COST SAVINGS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM RECORDKEEPING REQUIREMENTS

| NAICS code | NAICS Industry description | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Cost savings to industries newly exempted from keeping records |
|------------|--|---|---|--|--|
| 4412 | Other Motor Vehicle Dealers | \$30,380 | \$147,342 | \$57,160 | \$234,882 |
| 4431 | Electronics and Appliance Stores | 29,625 | 143,679 | 23,399 | 196,703 |
| 4461 | Health and Personal Care Stores | 11,533 | 55,936 | 3,719 | 71,188 |
| 4471 | Gasoline Stations | 97,861 | 474,627 | 55,292 | 627,780 |
| 4511 | Sporting Goods, Hobby, and Musical Instrument Stores. | 524 | 2,543 | 565 | 3,632 |
| 4532 | Office Supplies, Stationery, and Gift Stores | 37,046 | 179,672 | 32,867 | 249,585 |
| 4812 | Nonscheduled Air Transportation | 6,111 | 29,638 | 13,015 | 48,763 |
| 4861 | Pipeline Transportation of Crude Oil | 2,817 | 13,663 | 2,658 | 19,138 |
| 4862 | Pipeline Transportation of Natural Gas | 10,437 | 50,619 | 7,753 | 68,808 |
| 4869 | Other Pipeline Transportation | 7,053 | 34,209 | 3,325 | 44,588 |
| 4879 | Scenic and Sightseeing Transportation, Other | 356 | 1,728 | 1,214 | 3,299 |
| 4885 | Freight Transportation Arrangement | 57,062 | 276,750 | 46,329 | 380,141 |
| 5111 | Newspaper, Periodical, Book, and Directory Publishers. | 87,381 | 423,797 | 244,001 | 755,178 |
| 5122 | Sound Recording Industries | 3,415 | 16,561 | 3,127 | 23,102 |
| 5151 | Radio and Television Broadcasting | 57,541 | 279,076 | 75,027 | 411,645 |
| 5172 | Wireless Telecommunications Carriers (except Satellite). | 80,775 | 391,759 | 34,597 | 507,132 |
| 5173 | Telecommunications Resellers | 6,406 | 31,067 | 7,590 | 45,062 |
| 5179 | Other Telecommunications | 1,631 | 7,911 | 2,912 | 12,455 |
| 5181 | Internet Service Providers and Web Search Portals. | 1,679 | 8,144 | 2,653 | 12,477 |
| 5191 | Other Information Services | 1,690 | 8,195 | 2,493 | 12,378 |
| 5221 | Depository Credit Intermediation | 40,543 | 196,635 | 9,740 | 246,919 |
| 5239 | Other Financial Investment Activities | 923 | 4,478 | 283 | 5,684 |
| 5241 | Insurance Carriers | 2,012 | 9,759 | 959 | 12,729 |
| 5259 | Other Investment Pools and Funds | 7,403 | 35,903 | 4,004 | 47,309 |
| 5413 | Architectural, Engineering, and Related Services | 9,162 | 44,437 | 19,849 | 73,448 |
| 5416 | Management, Scientific, and Technical Consulting Services. | 13,221 | 64,121 | 4,190 | 81,532 |
| 5418 | Advertising and Related Services | 8,777 | 42,569 | 222,299 | 273,646 |
| 5511 | Management of Companies and Enterprises | 113,948 | 552,648 | 10,059 | 676,655 |
| 5614 | Business Support Services | 23,517 | 114,058 | 38,913 | 176,488 |
| 5615 | Travel Arrangement and Reservation Services | 56,903 | 275,981 | 7,722 | 340,606 |
| 5616 | Investigation and Security Services | 3,087 | 14,972 | 17,515 | 35,575 |
| 6116 | Other Schools and Instruction | 17,152 | 83,185 | 722 | 101,059 |
| 7213 | Rooming and Boarding Houses | 2,802 | 13,590 | 1,707 | 18,099 |
| 8112 | Electronic and Precision Equipment Repair and Maintenance. | 16,391 | 79,495 | 15,150 | 111,035 |
| 8114 | Personal and Household Goods Repair and Maintenance. | 17,062 | 82,751 | 26,979 | 126,792 |
| 8122 | Death Care Services | 13,856 | 67,199 | 49,346 | 130,401 |
| 8134 | Civic and Social Organizations | 33,901 | 164,421 | 39,480 | 237,802 |
| 8139 | Business, Professional, Labor, Political, and Similar Organizations. | 43,966 | 213,233 | 2,943 | 260,141 |
| Totals | | 955,949 | 4,636,351 | 1,091,556 | 6,683,856 |

Source: OSHA, Office of Regulatory Analysis.

To estimate the costs of reporting in-patient hospitalizations and amputations, OSHA multiplied the estimated 210,000 cases per year by 0.25 hours per report and by the \$40.04 per hour compensation costs of a recordkeeper. OSHA estimates that a recordkeeper or someone with equivalent salary would make this report. OSHA welcomes comment on whether such a report would typically be made by someone other than the

person who normally keeps records and what the salary or job title of such a person might be. The resulting estimate of the annual cost of this provision is \$2.1 million per year.

Table III-5 shows the total net costs of the proposed rule considering all three elements: Costs to currently exempt employers who would be newly required to keep records, cost savings to employers who would no longer be required to keep records, and reporting of all work-related in-patient

hospitalizations and amputations. OSHA estimates that the total net costs of this proposed rule would be \$8.5 million per year.

TABLE III-5—SUMMARY OF ANNUALIZED COSTS AND COST SAVINGS

| Cost or cost savings element | Value |
|---|--------------|
| Costs to Employers Newly Required to Keep Records | \$13,080,280 |

TABLE III-5—SUMMARY OF ANNUALIZED COSTS AND COST SAVINGS—Continued

| Cost or cost savings element | Value |
|---|-----------|
| Cost Savings to Employers Newly Exempt From Keeping Records | 6,683,856 |
| Costs of Additional Reporting of Hospitalizations and Amputations | 2,102,200 |
| Net Costs | 8,498,624 |

Benefits

OSHA anticipates that this proposed rule will have several benefits. First, the proposed rule will redirect recordkeeping efforts toward industries with higher DART rates, making the system more effective and efficient. While 119,000 establishments would no longer need to keep records, these establishments have an average injury and illness rate of 1.9 percent. On the other hand, the revision to the regulation adds 199,000 establishments with an average injury and illness rate of 3.2 percent. Thus, on average, establishments with higher injury and

illness rates will keep and post records. As a result, the employer, the employees, and OSHA will have a better idea of the nature of the serious injuries and illnesses occurring in establishments with relatively high injury and illness rates.

The proposed requirements to report all work-related in-patient hospitalizations within eight hours and all work-related amputations within 24 hours ensure that OSHA will be able to better utilize enforcement resources by targeting resources to establishments with the most serious hazards.

The hospitalization of a worker or an amputation due to a work-related incident is a serious and significant event. Requiring the reporting of these events would ensure that OSHA will be informed about many more of these serious occurrences than it is now. Greater awareness regarding the extent and nature of such cases helps in the development and prioritization of various OSHA enforcement programs and initiatives. It also serves the public interest by enabling OSHA to more effectively and efficiently target occupational safety and health hazards.

If such improvements in information and enforcement save even one life every three to four years as a result of this proposed rule, they will more than pay for the costs associated with such notifications.

Economic Impacts

In this section, OSHA will first consider the economic impact on those firms newly required to keep records, and then turn to the economic impacts of requirements to report in-patient hospitalizations and amputations. No economic impacts are examined for those firms that are no longer required to keep records.

Partial Exemption

OSHA compared the baseline financial data with the total annualized incremental costs of compliance by computing compliance costs per establishment. Table III-6 shows that the costs per establishment range from just above \$50 per establishment to a maximum of less than \$100 per establishment. OSHA believes that costs of this magnitude cannot possibly affect the viability of a firm, and are thus economically feasible.

TABLE III-6—ECONOMIC IMPACTS OF INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | NAICS Industry description | Affected establishments | Cost per affected establishment |
|--------------|--|-------------------------|---------------------------------|
| 3118 | Bakeries and Tortilla Manufacturing | 1,932 | \$57 |
| 4411 | Automobile Dealers | 23,351 | 84 |
| 4413 | Automotive Parts, Accessories, and Tire Stores | 426 | 60 |
| 4441 | Building Material and Supplies Dealers | 21,310 | 66 |
| 4452 | Specialty Food Stores | 7,339 | 58 |
| 4453 | Beer, Wine, and Liquor Stores | 6,109 | 58 |
| 4539 | Other Miscellaneous Store Retailers | 11,505 | 59 |
| 4543 | Direct Selling Establishments | 69 | 67 |
| 5313 | Activities Related to Real Estate | 19,341 | 63 |
| 5322 | Consumer Goods Rental | 14,186 | 54 |
| 5324 | Commercial and Industrial Machinery and Equipment Rental and Leasing | 807 | 65 |
| 5419 | Other Professional, Scientific, and Technical Services | 10,889 | 55 |
| 5612 | Facilities Support Services | 3,293 | 94 |
| 5617 | Services to Buildings and Dwellings | 104 | 72 |
| 5619 | Other Support Services | 6,238 | 72 |
| 6219 | Other Ambulatory Health Care Services | 2,688 | 85 |
| 6241 | Individual and Family Services | 30,230 | 63 |
| 6242 | Community Food and Housing, and Emergency and Other Relief Services | 7,369 | 60 |
| 7111 | Performing Arts Companies | 1,994 | 87 |
| 7113 | Promoters of Performing Arts, Sports, and Similar Events | 1,183 | 84 |
| 7121 | Museums, Historical Sites, and Similar Institutions | 1,610 | 80 |
| 7139 | Other Amusement and Recreation Industries | 2,912 | 59 |
| 7223 | Special Food Services | 22,379 | 65 |
| 8129 | Other Personal Services | 1,498 | 62 |
| Totals | | 198,763 | 82 |

Source: OSHA, Office of Regulatory Analysis.

Reporting of Fatalities, Hospitalizations, and Amputations

Given OSHA's estimates of total costs of approximately \$2 million per year across all 7.5 million business establishments in OSHA's jurisdiction, the average cost per establishment of this provision is \$0.27 per establishment per year. In a typical year, most establishments will not report a single work-related hospitalization. Even for those that do, the cost will be approximately \$10 per hospitalization or amputation that has to be reported. Costs of this magnitude will not affect the viability of any firm.

Regulatory Flexibility Certification

OSHA would continue to partially exempt employers with fewer than 11 employees from its recordkeeping regulations under this proposed rule. Such very small firms are affected by the revisions to this rule only insofar as they may have to report a fatality, inpatient hospitalization or amputation. This will be extremely rare for most small firms. Even when this occurs, OSHA has estimated the costs as approximately \$10 per report, a sum

that will not cause problems for even the smallest firms.

Most of the employers affected by the change in the partial exemption to the recordkeeping rule are small firms. Even when one considers the mix of small and large firms covered by the rule, the average costs per establishment are well under \$100 per year per establishment. OSHA believes that costs of less than \$100 per establishment do not represent a significant economic impact on small firms with 11 employees or more.

As a result of these considerations, in accordance with the RFA, OSHA certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Section III Appendix: PEA Data at the Six Digit NAICS Level

This appendix provides supporting material developed in support of this rule at the six-digit NAICS level.

Table III-1A presents data on industries with establishments that would be newly required to keep records. The table shows the six-digit NAICS code, industry name, the number

of affected employees, and an estimate of the number of recordable injuries and illnesses, based on historical data, for newly affected employers.

Table III-2A presents data on industries with establishments that would be newly partially exempt from recordkeeping. The table shows the six-digit NAICS code, industry name, number of affected establishments per industry, number of employees, and the estimated number of injuries and illnesses that would no longer be recorded in each affected industry.

Table III-3A shows OSHA's estimates of the costs of the proposed rule, at the six-digit NAICS level, for currently partially exempt employers who would need to keep records as a result of the proposed rule.

Table III-4A shows OSHA's estimates of the cost savings of the proposed rule, at the six-digit NAICS level, for those employers who would no longer need to keep records as a result of the proposed rule.

Table III-6A shows the costs per establishment at the six-digit NAICS level.

TABLE III-1A—INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS code | Title of NAICS code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|--------------|---|---------------------|-------------------------|----------------|----------------------------------|
| 311811 | Retail Bakeries | 42,294 | 1,932 | 1,766 | 571 |
| 441110 | New Car Dealers | 1,136,905 | 19,971 | 16,525 | 47,972 |
| 441120 | Used Car Dealers | 67,661 | 3,379 | 2,631 | 1,016 |
| 441310 | Automotive Parts and Accessories Stores | 5,207 | 426 | 84 | 204 |
| 444130 | Hardware Stores | 260,363 | 21,310 | 4,215 | 18,577 |
| 445210 | Meat Markets | 20,194 | 1,250 | 833 | 451 |
| 445220 | Fish and Seafood Markets | 908 | 44 | 40 | 20 |
| 445291 | Baked Goods Stores | 22,149 | 2,133 | 678 | 756 |
| 445292 | Confectionery and Nut Stores | 14,587 | 1,576 | 332 | 498 |
| 445299 | All Other Specialty Food Stores | 30,294 | 2,336 | 1,161 | 1,034 |
| 445310 | Beer, Wine, and Liquor Stores | 69,011 | 6,109 | 2,878 | 2,356 |
| 453910 | Pet and Pet Supplies Stores | 76,608 | 3,691 | 1,150 | 2,309 |
| 453920 | Art Dealers | 8,370 | 622 | 397 | 36 |
| 453991 | Tobacco Stores | 15,975 | 1,841 | 610 | 481 |
| 453998 | All Other Miscellaneous Store Retailers (except Tobacco Stores). | 59,200 | 5,351 | 2,144 | 1,784 |
| 454390 | Other Direct Selling Establishments | 1,569 | 69 | 43 | 67 |
| 531311 | Residential Property Managers | 312,261 | 11,737 | 5,378 | 8,942 |
| 531312 | Nonresidential Property Managers | 114,972 | 4,724 | 2,517 | 3,292 |
| 531320 | Offices of Real Estate Appraisers | 14,273 | 835 | 639 | 365 |
| 531390 | Other Activities Related to Real Estate | 49,435 | 2,045 | 1,346 | 1,264 |
| 532220 | Formal Wear and Costume Rental | 9,339 | 1,243 | 184 | 267 |
| 532230 | Video Tape and Disc Rental | 121,174 | 12,922 | 967 | 837 |
| 532299 | All Other Consumer Goods Rental | 326 | 21 | 8 | 11 |
| 532420 | Office Machinery and Equipment Rental and Leasing. | 5,642 | 343 | 156 | 273 |
| 532490 | Other Commercial and Industrial Machinery and Equipment Rental and Leasing. | 8,321 | 464 | 139 | 403 |
| 541910 | Marketing Research and Public Opinion Polling | 117,181 | 2,061 | 1,197 | 215 |
| 541921 | Photography Studios, Portrait | 51,450 | 6,020 | 642 | 664 |
| 541922 | Commercial Photography | 6,225 | 298 | 239 | 80 |
| 541930 | Translation and Interpretation Services | 8,935 | 240 | 193 | 317 |
| 541990 | All Other Professional, Scientific, and Technical Services. | 65,370 | 2,271 | 1,499 | 576 |
| 561210 | Facilities Support Services | 162,384 | 3,293 | 865 | 8,955 |
| 561790 | Other Services to Buildings and Dwellings | 2,140 | 104 | 50 | 134 |

TABLE III-1A—INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS—
Continued

| NAICS code | Title of NAICS code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|--------------|--|---------------------|-------------------------|----------------|----------------------------------|
| 561910 | Packaging and Labeling Services | 54,249 | 805 | 694 | 1,431 |
| 561920 | Convention and Trade Show Organizers | 77,944 | 1,090 | 834 | 2,056 |
| 561990 | All Other Support Services | 176,791 | 4,343 | 2,624 | 4,663 |
| 621991 | Blood and Organ Banks | 61,113 | 1,082 | 222 | 3,317 |
| 621999 | All Other Miscellaneous Ambulatory Health Care Services. | 44,543 | 1,606 | 638 | 2,417 |
| 624110 | Child and Youth Services | 146,467 | 5,443 | 2,951 | 3,024 |
| 624120 | Services for the Elderly and Persons with Disabilities. | 479,601 | 10,944 | 6,653 | 16,239 |
| 624190 | Other Individual and Family Services | 369,788 | 13,844 | 6,312 | 1,725 |
| 624210 | Community Food Services | 26,674 | 2,208 | 848 | 713 |
| 624221 | Temporary Shelters | 60,422 | 2,636 | 1,880 | 1,565 |
| 624229 | Other Community Housing Services | 31,478 | 1,649 | 1,090 | 815 |
| 624230 | Emergency and Other Relief Services | 19,698 | 876 | 439 | 443 |
| 711110 | Theater Companies and Dinner Theaters | 67,614 | 1,114 | 1,013 | 2,612 |
| 711120 | Dance Companies | 8,038 | 167 | 165 | 311 |
| 711130 | Musical Groups and Artists | 34,372 | 615 | 604 | 1,328 |
| 711190 | Other Performing Arts Companies | 6,019 | 99 | 83 | 232 |
| 711310 | Promoters of Performing Arts, Sports, and Similar Events with Facilities. | 76,435 | 727 | 579 | 1,974 |
| 711320 | Promoters of Performing Arts, Sports, and Similar Events without Facilities. | 17,303 | 456 | 394 | 447 |
| 712110 | Museums | 70,539 | 1,377 | 1,184 | 2,589 |
| 712120 | Historical Sites | 7,394 | 234 | 167 | 271 |
| 713950 | Bowling Centers | 73,206 | 2,721 | 2,052 | 1,251 |
| 713990 | All Other Amusement and Recreation Industries | 241 | 192 | 191 | 4 |
| 722310 | Food Service Contractors | 403,073 | 19,247 | 853 | 14,347 |
| 722320 | Caterers | 107,221 | 3,132 | 2,949 | 3,817 |
| 812921 | Photofinishing Laboratories (except One-Hour) .. | 16,977 | 429 | 324 | 560 |
| 812922 | One-Hour Photofinishing | 1,457 | 172 | 82 | 48 |
| 812990 | All Other Personal Services | 23,820 | 897 | 712 | 306 |
| Total | | 5,343,199 | 198,763 | 88,040 | 173,233 |

Source: OSHA, Office of Regulatory Analysis.

Source: 2006 County Business Patterns: http://www2.census.gov/econ/susb/data/2006/us_6digitnaics_2006.xls.

Source: 2006 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. <http://www.bls.gov/iif/oshwc/osh/os/osnr0028.pdf>.

III-2A—INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM KEEPING RECORDS

| NAICS Code | Title of NAICS Code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|--------------|--|---------------------|-------------------------|----------------|----------------------------------|
| 441210 | Recreational Vehicle Dealers | 36,713 | 1,287 | 996 | 1,722 |
| 441221 | Motorcycle Dealers | 4,344 | 174 | 151 | 202 |
| 441222 | Boat Dealers | 29,649 | 1,897 | 1,048 | 1,379 |
| 441229 | All Other Motor Vehicle Dealers | 9,735 | 436 | 398 | 453 |
| 443111 | Household Appliance Stores | 48,606 | 2,770 | 1,490 | 1,376 |
| 443120 | Computer and Software Stores | 18,296 | 930 | 212 | 162 |
| 446120 | Cosmetics, Beauty Supplies, and Perfume Stores. | 2,830 | 294 | 21 | 42 |
| 446199 | All Other Health and Personal Care Stores | 12,790 | 1,146 | 404 | 202 |
| 447110 | Gasoline Stations with Convenience Stores | 128,972 | 12,220 | 2,575 | 3,634 |
| 451130 | Sewing, Needlework, and Piece Goods Stores .. | 1,271 | 65 | 16 | 37 |
| 453210 | Office Supplies and Stationery Stores | 98,855 | 4,626 | 873 | 2,160 |
| 481211 | Nonscheduled Chartered Passenger Air Transportation. | 28,094 | 524 | 422 | 636 |
| 481212 | Nonscheduled Chartered Freight Air Transportation. | 5,442 | 96 | 70 | 123 |
| 481219 | Other Nonscheduled Air Transportation | 4,271 | 144 | 88 | 97 |
| 486110 | Pipeline Transportation of Crude Oil | 7,472 | 352 | 35 | 175 |
| 486210 | Pipeline Transportation of Natural Gas | 22,080 | 1,303 | 68 | 510 |
| 486910 | Pipeline Transportation of Refined Petroleum Products. | 8,661 | 827 | 38 | 202 |
| 486990 | All Other Pipeline Transportation | 687 | 54 | 13 | 16 |
| 487990 | Scenic and Sightseeing Transportation, Other ... | 2,155 | 45 | 39 | 80 |
| 488510 | Freight Transportation Arrangement | 166,549 | 7,126 | 2,709 | 3,045 |

III-2A—INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM KEEPING RECORDS—Continued

| NAICS Code | Title of NAICS Code | Affected employment | Affected establishments | Affected firms | Estimated injuries and illnesses |
|------------|--|---------------------|-------------------------|----------------|----------------------------------|
| 511110 | Newspaper Publishers | 358,841 | 4,969 | 1,945 | 11,451 |
| 511120 | Periodical Publishers | 148,126 | 3,515 | 1,651 | 2,186 |
| 511130 | Book Publishers | 77,645 | 1,044 | 755 | 957 |
| 511140 | Directory and Mailing List Publishers | 47,569 | 948 | 306 | 958 |
| 511191 | Greeting Card Publishers | 10,756 | 49 | 33 | 236 |
| 511199 | All Other Publishers | 11,275 | 387 | 206 | 248 |
| 512210 | Record Production | 947 | 33 | 29 | 5 |
| 512220 | Integrated Record Production/Distribution | 7,492 | 142 | 56 | 174 |
| 512230 | Music Publishers | 3,181 | 78 | 56 | 15 |
| 512290 | Other Sound Recording Industries | 2,439 | 173 | 56 | 12 |
| 515111 | Radio Networks | 10,868 | 426 | 199 | 729 |
| 515112 | Radio Stations | 106,849 | 5,003 | 1,408 | 1,968 |
| 515120 | Television Broadcasting | 133,807 | 1,756 | 477 | 2,234 |
| 517211 | Paging | 4,020 | 258 | 68 | 39 |
| 517212 | Cellular and Other Wireless Telecommunications. | 232,223 | 9,829 | 462 | 2,235 |
| 517310 | Telecommunications Resellers | 27,652 | 800 | 533 | 499 |
| 517910 | Other Telecommunications | 9,365 | 204 | 104 | 191 |
| 518112 | Web Search Portals | 20,957 | 210 | 157 | 174 |
| 519190 | All Other Information Services | 10,406 | 211 | 96 | 164 |
| 522120 | Savings Institutions | 81,130 | 5,063 | 356 | 640 |
| 522293 | International Trade Financing | 4,727 | 32 | 8 | 15 |
| 523999 | Miscellaneous Financial Investment Activities | 8,158 | 115 | 77 | 19 |
| 524130 | Reinsurance Carriers | 8,946 | 251 | 55 | 63 |
| 525910 | Open-End Investment Funds | 3,356 | 89 | 44 | 14 |
| 525930 | Real Estate Investment Trusts | 16,912 | 835 | 181 | 115 |
| 541320 | Landscape Architectural Services | 28,061 | 1,058 | 940 | 446 |
| 541360 | Geophysical Surveying and Mapping Services | 3,891 | 86 | 68 | 62 |
| 541612 | Human Resources and Executive Search Consulting Services. | 78,223 | 1,566 | 878 | 427 |
| 541614 | Process, Physical Distribution, and Logistics Consulting Services. | 1,141 | 47 | 16 | 6 |
| 541618 | Other Management Consulting Services | 1,201 | 38 | 33 | 7 |
| 541890 | Other Services Related to Advertising | 48,061 | 1,096 | 764 | 691 |
| 551114 | Insurance and Employee Benefit Funds | 1,015,532 | 14,229 | 6,983 | 20,526 |
| 561421 | Pension Funds | 32,711 | 645 | 501 | 347 |
| 561440 | Health and Welfare Funds | 133,744 | 2,291 | 1,671 | 1,522 |
| 561510 | Travel Agencies | 100,249 | 5,621 | 1,328 | 373 |
| 561520 | Tour Operators | 22,872 | 662 | 500 | 155 |
| 561599 | All Other Travel Arrangement and Reservation Services. | 44,278 | 823 | 227 | 857 |
| 561622 | Locksmiths | 6,361 | 386 | 332 | 148 |
| 611620 | Sports and Recreation Instruction | 49,500 | 2,142 | 1,961 | 372 |
| 721310 | Rooming and Boarding Houses | 6,313 | 350 | 280 | 60 |
| 811211 | Consumer Electronics Repair and Maintenance | 11,779 | 380 | 267 | 225 |
| 811212 | Computer and Office Machine Repair and Maintenance. | 4,814 | 136 | 74 | 92 |
| 811213 | Communication Equipment Repair and Maintenance. | 13,015 | 479 | 313 | 248 |
| 811219 | Other Electronic and Precision Equipment Repair and Maintenance. | 32,181 | 1,052 | 528 | 614 |
| 811411 | Home and Garden Equipment Repair and Maintenance. | 2,165 | 146 | 111 | 59 |
| 811412 | Appliance Repair and Maintenance | 22,039 | 883 | 375 | 602 |
| 811430 | Footwear and Leather Goods Repair | 43 | 5 | 2 | 1 |
| 811490 | Other Personal and Household Goods Repair and Maintenance. | 18,334 | 1,096 | 658 | 501 |
| 812220 | Cemeteries and Crematories | 24,515 | 1,730 | 551 | 606 |
| 813410 | Civic and Social Organizations | 131,301 | 4,233 | 3,141 | 2,473 |
| 813930 | Labor Unions and Similar Labor Organizations | 137,786 | 5,145 | 4,307 | 2,595 |
| 813940 | Political Organizations | 10,270 | 345 | 341 | 193 |
| Totals | | 3,960,772 | 119,374 | 48,123 | 75,787 |

Source: OSHA, Office of Regulatory Analysis.

¹ Source: 2006 County Business Patterns: http://www2.census.gov/econ/susb/data/2006/us_6digitnaics_2006.xls.

² Source: 2006 Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, in cooperation with participating State agencies. <http://www.bls.gov/iif/oshwc/osh/os/osnr0028.pdf>.

TABLE III-3A—ANNUALIZED COSTS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | NAICS Industry description | Learning new recordkeeping system | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Total costs to industries newly required to keep records |
|------------|---|-----------------------------------|---|---|--|--|
| 311811 .. | Retail Bakeries | \$11,014 | \$15,471 | \$75,037 | \$8,683 | \$110,205 |
| 441110 .. | New Car Dealers | 113,852 | 159,930 | 775,661 | 729,910 | 1,779,353 |
| 441120 .. | Used Car Dealers | 19,264 | 27,061 | 131,244 | 15,462 | 193,031 |
| 441310 .. | Automotive Parts and Accessories Stores. | 2,430 | 3,413 | 16,553 | 3,108 | 25,503 |
| 444130 .. | Hardware Stores | 121,482 | 170,648 | 827,643 | 282,648 | 1,402,421 |
| 445210 .. | Meat Markets | 7,126 | 10,010 | 48,549 | 6,856 | 72,540 |
| 445220 .. | Fish and Seafood Markets | 252 | 354 | 1,715 | 312 | 2,632 |
| 445291 .. | Baked Goods Stores | 12,159 | 17,080 | 82,839 | 11,504 | 123,583 |
| 445292 .. | Confectionery and Nut Stores | 8,985 | 12,622 | 61,216 | 7,576 | 90,399 |
| 445299 .. | All Other Specialty Food Stores .. | 13,315 | 18,703 | 90,712 | 15,734 | 138,464 |
| 445310 .. | Beer, Wine, and Liquor Stores | 34,824 | 48,918 | 237,251 | 35,842 | 356,834 |
| 453910 .. | Pet and Pet Supplies Stores | 21,043 | 29,560 | 143,366 | 35,132 | 229,101 |
| 453920 .. | Art Dealers | 3,548 | 4,984 | 24,173 | 547 | 33,252 |
| 453991 .. | Tobacco Stores | 10,493 | 14,740 | 71,487 | 7,326 | 104,045 |
| 453998 .. | All Other Miscellaneous Store Retailers (except Tobacco Stores). | 30,504 | 42,849 | 207,819 | 27,149 | 308,320 |
| 454390 .. | Other Direct Selling Establishments. | 394 | 554 | 2,686 | 1,016 | 4,650 |
| 531311 .. | Residential Property Managers ... | 66,911 | 93,991 | 455,859 | 136,060 | 752,821 |
| 531312 .. | Nonresidential Property Managers. | 26,929 | 37,827 | 183,463 | 50,096 | 298,315 |
| 531320 .. | Offices of Real Estate Appraisers | 4,761 | 6,688 | 32,438 | 5,554 | 49,442 |
| 531390 .. | Other Activities Related to Real Estate. | 11,658 | 16,376 | 79,421 | 19,238 | 126,692 |
| 532220 .. | Formal Wear and Costume Rental. | 7,088 | 9,957 | 48,292 | 4,060 | 69,397 |
| 532230 .. | Video Tape and Disc Rental | 73,665 | 103,478 | 501,867 | 12,735 | 691,744 |
| 532299 .. | All Other Consumer Goods Rental. | 121 | 170 | 822 | 160 | 1,273 |
| 532420 .. | Office Machinery and Equipment Rental and Leasing. | 1,953 | 2,744 | 13,307 | 4,155 | 22,158 |
| 532490 .. | Other Commercial and Industrial Machinery and Equipment Rental and Leasing. | 2,648 | 3,719 | 18,037 | 6,128 | 30,532 |
| 541910 .. | Marketing Research and Public Opinion Polling. | 11,748 | 16,502 | 80,035 | 3,268 | 111,553 |
| 541921 .. | Photography Studios, Portrait | 34,317 | 48,206 | 233,798 | 10,107 | 326,428 |
| 541922 .. | Commercial Photography | 1,699 | 2,386 | 11,574 | 1,223 | 16,881 |
| 541930 .. | Translation and Interpretation Services. | 1,368 | 1,921 | 9,317 | 4,824 | 17,430 |
| 541990 .. | All Other Professional, Scientific, and Technical Services. | 12,945 | 18,185 | 88,195 | 8,771 | 128,096 |
| 561210 .. | Facilities Support Services | 18,773 | 26,371 | 127,900 | 136,245 | 309,289 |
| 561790 .. | Other Services to Buildings and Dwellings. | 595 | 836 | 4,053 | 2,032 | 7,516 |
| 561910 .. | Packaging and Labeling Services | 4,587 | 6,443 | 31,250 | 21,773 | 64,053 |
| 561920 .. | Convention and Trade Show Organizers. | 6,216 | 8,731 | 42,346 | 31,283 | 88,575 |
| 561990 .. | All Other Support Services | 24,759 | 34,779 | 168,678 | 70,955 | 299,171 |

TABLE III-3A—ANNUALIZED COSTS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | NAICS Industry description | Learning new record keeping system | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Total costs to industries newly required to keep records |
|------------|--|------------------------------------|---|---|--|--|
| 621991 .. | Blood and Organ Banks | 6,165 | 8,661 | 42,004 | 50,465 | 107,295 |
| 621999 .. | All Other Miscellaneous Ambulatory Health Care Services. | 9,156 | 12,862 | 62,379 | 36,782 | 121,179 |
| 624110 .. | Child and Youth Services | 31,027 | 43,584 | 211,384 | 46,008 | 332,004 |

TABLE III-3A—ANNUALIZED COSTS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS—Continued

| NAICS Code | NAICS Industry description | Learning new record keeping system | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Total costs to industries newly required to keep records |
|------------|--|------------------------------------|---|---|--|--|
| 624120 .. | Services for the Elderly and Persons with Disabilities. | 62,391 | 87,641 | 425,060 | 247,081 | 822,172 |
| 624190 .. | Other Individual and Family Services. | 78,919 | 110,859 | 537,665 | 26,251 | 753,693 |
| 624210 .. | Community Food Services | 12,587 | 17,682 | 85,756 | 10,843 | 126,869 |
| 624221 .. | Temporary Shelters | 15,027 | 21,108 | 102,375 | 23,817 | 162,327 |
| 624229 .. | Other Community Housing Services. | 9,400 | 13,204 | 64,041 | 12,408 | 99,053 |
| 624230 .. | Emergency and Other Relief Services. | 4,996 | 7,018 | 34,038 | 6,735 | 52,788 |
| 711110 .. | Theater Companies and Dinner Theaters. | 6,350 | 8,920 | 43,263 | 39,742 | 98,274 |
| 711120 .. | Dance Companies | 950 | 1,335 | 6,474 | 4,724 | 13,484 |
| 711130 .. | Musical Groups and Artists | 3,504 | 4,923 | 23,874 | 20,203 | 52,504 |
| 711190 .. | Other Performing Arts Companies | 562 | 790 | 3,830 | 3,537 | 8,719 |
| 711310 .. | Promoters of Performing Arts, Sports, and Similar Events with Facilities. | 4,143 | 5,819 | 28,224 | 30,040 | 68,226 |
| 711320 .. | Promoters of Performing Arts, Sports, and Similar Events without Facilities. | 2,601 | 3,654 | 17,723 | 6,800 | 30,779 |
| 712110 .. | Museums | 7,847 | 11,023 | 53,462 | 39,386 | 111,718 |
| 712120 .. | Historical Sites | 1,333 | 1,873 | 9,084 | 4,128 | 16,419 |
| 713950 .. | Bowling Centers | 15,511 | 21,788 | 105,673 | 19,028 | 161,999 |
| 713990 .. | All Other Amusement and Recreation Industries. | 1,092 | 1,534 | 7,438 | 59 | 10,122 |
| 722310 .. | Food Service Contractors | 109,725 | 154,132 | 747,542 | 218,299 | 1,229,698 |
| 722320 .. | Caterers | 17,853 | 25,079 | 121,631 | 58,070 | 222,633 |
| 812921 .. | Photofinishing Laboratories (except One-Hour). | 2,445 | 3,435 | 16,658 | 8,516 | 31,053 |
| 812922 .. | One-Hour Photofinishing | 979 | 1,376 | 6,673 | 731 | 9,758 |
| 812990 .. | All Other Personal Services | 5,116 | 7,186 | 34,851 | 4,658 | 51,811 |
| Totals | | 1,133,105 | 1,591,692 | 7,719,704 | 2,635,779 | 13,080,280 |

Sources: OSHA, Office of Regulatory Analysis.

TABLE III-4A—COST SAVINGS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM RECORDKEEPING REQUIREMENTS

| NAICS Code | NAICS Industry description | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Costs savings to industries newly exempted from keeping records |
|--------------|--|---|---|--|---|
| 441210 | Recreational Vehicle Dealers | \$10,304 | \$49,974 | \$26,206 | \$86,483 |
| 441221 | Motorcycle Dealers | 1,396 | 6,773 | 3,075 | 11,244 |
| 441222 | Boat Dealers | 15,192 | 73,681 | 20,988 | 109,861 |
| 441229 | All Other Motor Vehicle Dealers | 3,487 | 16,914 | 6,891 | 27,293 |
| 443111 | Household Appliance Stores | 22,180 | 107,572 | 20,933 | 150,684 |
| 443120 | Computer and Software Stores | 7,445 | 36,107 | 2,467 | 46,019 |
| 446120 | Cosmetics, Beauty Supplies, and Perfume Stores. | 2,353 | 11,412 | 643 | 14,408 |
| 446199 | All Other Health and Personal Care Stores | 9,180 | 44,524 | 3,076 | 56,780 |
| 447110 | Gasoline Stations with Convenience Stores | 97,861 | 474,627 | 55,292 | 627,780 |
| 451130 | Sewing, Needlework, and Piece Goods Stores .. | 524 | 2,543 | 565 | 3,632 |
| 453210 | Office Supplies and Stationery Stores | 37,046 | 179,672 | 32,867 | 249,585 |
| 481211 | Nonscheduled Chartered Passenger Air Transportation. | 4,192 | 20,332 | 9,671 | 34,195 |
| 481212 | Nonscheduled Chartered Freight Air Transportation. | 769 | 3,729 | 1,873 | 6,370 |
| 481219 | Other Nonscheduled Air Transportation | 1,150 | 5,577 | 1,470 | 8,197 |
| 486110 | Pipeline Transportation of Crude Oil | 2,817 | 13,663 | 2,658 | 19,138 |
| 486210 | Pipeline Transportation of Natural Gas | 10,437 | 50,619 | 7,753 | 68,808 |

TABLE III-4A—COST SAVINGS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM RECORDKEEPING REQUIREMENTS—Continued

| NAICS Code | NAICS Industry description | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Costs savings to industries newly exempted from keeping records |
|--------------|---|---|---|--|---|
| 486910 | Pipeline Transportation of Refined Petroleum Products. | 6,622 | 32,116 | 3,081 | 41,818 |
| 486990 | All Other Pipeline Transportation | 432 | 2,093 | 244 | 2,769 |
| 487990 | Scenic and Sightseeing Transportation, Other ... | 356 | 1,728 | 1,214 | 3,299 |
| 488510 | Freight Transportation Arrangement | 57,062 | 276,750 | 46,329 | 380,141 |
| 511110 | Newspaper Publishers | 39,793 | 192,994 | 174,234 | 407,021 |
| 511120 | Periodical Publishers | 28,148 | 136,518 | 33,260 | 197,927 |
| 511130 | Book Publishers | 8,359 | 40,540 | 14,567 | 63,466 |
| 511140 | Directory and Mailing List Publishers | 7,588 | 36,803 | 14,572 | 58,964 |
| 511191 | Greeting Card Publishers | 393 | 1,907 | 3,597 | 5,897 |
| 511199 | All Other Publishers | 3,100 | 15,034 | 3,770 | 21,905 |
| 512210 | Record Production | 267 | 1,293 | 69 | 1,629 |
| 512220 | Integrated Record Production/Distribution | 1,140 | 5,531 | 2,651 | 9,322 |
| 512230 | Music Publishers | 625 | 3,029 | 230 | 3,884 |
| 512290 | Other Sound Recording Industries | 1,383 | 6,707 | 177 | 8,267 |
| 515111 | Radio Networks | 3,413 | 16,553 | 11,094 | 31,060 |
| 515112 | Radio Stations | 40,066 | 194,322 | 29,948 | 264,336 |
| 515120 | Television Broadcasting | 14,062 | 68,201 | 33,985 | 116,248 |
| 517211 | Paging | 2,067 | 10,024 | 589 | 12,680 |
| 517212 | Cellular and Other Wireless Telecommuni- cations. | 78,708 | 381,735 | 34,009 | 494,452 |
| 517310 | Telecommunications Resellers | 6,406 | 31,067 | 7,590 | 45,062 |
| 517910 | Other Telecommunications | 1,631 | 7,911 | 2,912 | 12,455 |
| 518112 | Web Search Portals | 1,679 | 8,144 | 2,653 | 12,477 |
| 519190 | All Other Information Services | 1,690 | 8,195 | 2,493 | 12,378 |
| 522120 | Savings Institutions | 40,543 | 196,635 | 9,740 | 246,919 |
| 523999 | Miscellaneous Financial Investment Activities ... | 923 | 4,478 | 283 | 5,684 |
| 524130 | Reinsurance Carriers | 2,012 | 9,759 | 959 | 12,729 |
| 525910 | Open-End Investment Funds | 714 | 3,464 | 1,100 | 5,278 |
| 525930 | Real Estate Investment Trusts | 6,688 | 32,438 | 2,904 | 42,031 |
| 541320 | Landscape Architectural Services | 8,472 | 41,088 | 941 | 50,500 |
| 541360 | Geophysical Surveying and Mapping Services ... | 691 | 3,349 | 18,908 | 22,948 |
| 541612 | Human Resources and Executive Search Con- sulting Services. | 12,542 | 60,831 | 95 | 73,468 |
| 541614 | Process, Physical Distribution, and Logistics Consulting Services. | 377 | 1,829 | 100 | 2,306 |
| 541618 | Other Management Consulting Services | 301 | 1,461 | 3,995 | 5,757 |
| 541890 | Other Services Related to Advertising | 8,777 | 42,569 | 222,299 | 273,646 |
| 551114 | Corporate, Subsidiary, and Regional Managing Offices. | 113,948 | 552,648 | 10,059 | 676,655 |
| 561421 | Telephone Answering Services | 5,168 | 25,063 | 21,557 | 51,787 |
| 561440 | Collection Agencies | 18,350 | 88,995 | 17,356 | 124,701 |
| 561510 | Travel Agencies | 45,012 | 218,309 | 1,296 | 264,617 |
| 561520 | Tour Operators | 5,302 | 25,715 | 4,552 | 35,569 |
| 561599 | All Other Travel Arrangement and Reservation Services. | 6,589 | 31,956 | 1,874 | 40,419 |
| 561622 | Locksmiths | 3,087 | 14,972 | 17,515 | 35,575 |
| 611620 | Sports and Recreation Instruction | 17,152 | 83,185 | 722 | 101,059 |
| 721310 | Rooming and Boarding Houses | 2,802 | 13,590 | 1,707 | 18,099 |
| 811211 | Consumer Electronics Repair and Maintenance | 3,046 | 14,774 | 1,398 | 19,218 |
| 811212 | Computer and Office Machine Repair and Main- tenance. | 1,090 | 5,286 | 3,779 | 10,155 |
| 811213 | Communication Equipment Repair and Mainte- nance. | 3,832 | 18,584 | 9,344 | 31,760 |
| 811219 | Other Electronic and Precision Equipment Re- pair and Maintenance. | 8,423 | 40,851 | 629 | 49,902 |
| 811411 | Home and Garden Equipment Repair and Main- tenance. | 1,172 | 5,682 | 9,157 | 16,011 |
| 811412 | Appliance Repair and Maintenance | 7,073 | 34,306 | 18 | 41,398 |
| 811430 | Footwear and Leather Goods Repair | 39 | 191 | 7,618 | 7,849 |
| 811490 | Other Personal and Household Goods Repair and Maintenance. | 8,778 | 42,571 | 10,186 | 61,535 |
| 812220 | Cemeteries and Crematories | 13,856 | 67,199 | 49,346 | 130,401 |
| 813410 | Civic and Social Organizations | 33,901 | 164,421 | 39,480 | 237,802 |
| 813930 | Labor Unions and Similar Labor Organizations .. | 41,204 | 199,841 | 2,943 | 243,988 |
| 813940 | Political Organizations | 2,761 | 13,392 | 0 | 16,153 |

TABLE III-4A—COST SAVINGS TO INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY PARTIALLY EXEMPT FROM RECORDKEEPING REQUIREMENTS—Continued

| NAICS Code | NAICS Industry description | Relearning recordkeeping system due to turnover | Complete, certify and post OSHA Form 300A | Complete log entries, mark privacy issues and provide employees access | Costs savings to industries newly exempted from keeping records |
|--------------|----------------------------|---|---|--|---|
| Totals | | 955,949 | 4,636,351 | 1,091,556 | 6,683,856 |

Source: OSHA, Office of Regulatory Analysis.

TABLE III-6A—ECONOMIC IMPACTS OF INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS

| NAICS Code | NAICS Industry description | Affected establishments | Cost per affected establishment |
|--------------|---|-------------------------|---------------------------------|
| 311811 | Retail Bakeries | 1,932 | \$57.04 |
| 441110 | New Car Dealers | 19,971 | 89.10 |
| 441120 | Used Car Dealers | 3,379 | 57.12 |
| 441310 | Automotive Parts and Accessories Stores | 426 | 59.84 |
| 444130 | Hardware Stores | 21,310 | 65.81 |
| 445210 | Meat Markets | 1,250 | 58.03 |
| 445220 | Fish and Seafood Markets | 44 | 59.61 |
| 445291 | Baked Goods Stores | 2,133 | 57.94 |
| 445292 | Confectionery and Nut Stores | 1,576 | 57.35 |
| 445299 | All Other Specialty Food Stores | 2,336 | 59.28 |
| 445310 | Beer, Wine, and Liquor Stores | 6,109 | 58.42 |
| 453910 | Pet and Pet Supplies Stores | 3,691 | 62.07 |
| 453920 | Art Dealers | 622 | 53.43 |
| 453991 | Tobacco Stores | 1,841 | 56.53 |
| 453998 | All Other Miscellaneous Store Retailers (except Tobacco Stores) | 5,351 | 57.62 |
| 454390 | Other Direct Selling Establishments | 69 | 67.23 |
| 531311 | Residential Property Managers | 11,737 | 64.14 |
| 531312 | Nonresidential Property Managers | 4,724 | 63.15 |
| 531320 | Offices of Real Estate Appraisers | 835 | 59.20 |
| 531390 | Other Activities Related to Real Estate | 2,045 | 61.96 |
| 532220 | Formal Wear and Costume Rental | 1,243 | 55.81 |
| 532230 | Video Tape and Disc Rental | 12,922 | 53.53 |
| 532299 | All Other Consumer Goods Rental | 21 | 60.12 |
| 532420 | Office Machinery and Equipment Rental and Leasing | 343 | 64.67 |
| 532490 | Other Commercial and Industrial Machinery and Equipment Rental and Leasing. | 464 | 65.74 |
| 541910 | Marketing Research and Public Opinion Polling | 2,061 | 54.13 |
| 541921 | Photography Studios, Portrait | 6,020 | 54.23 |
| 541922 | Commercial Photography | 298 | 56.65 |
| 541930 | Translation and Interpretation Services | 240 | 72.65 |
| 541990 | All Other Professional, Scientific, and Technical Services | 2,271 | 56.41 |
| 561210 | Facilities Support Services | 3,293 | 93.92 |
| 561790 | Other Services to Buildings and Dwellings | 104 | 72.02 |
| 561910 | Packaging and Labeling Services | 805 | 79.61 |
| 561920 | Convention and Trade Show Organizers | 1,090 | 81.24 |
| 561990 | All Other Support Services | 4,343 | 68.89 |
| 621991 | Blood and Organ Banks | 1,082 | 99.21 |
| 621999 | All Other Miscellaneous Ambulatory Health Care Services | 1,606 | 75.45 |
| 624110 | Child and Youth Services | 5,443 | 61.00 |
| 624120 | Services for the Elderly and Persons with Disabilities | 10,944 | 75.12 |
| 624190 | Other Individual and Family Services | 13,844 | 54.44 |
| 624210 | Community Food Services | 2,208 | 57.46 |
| 624221 | Temporary Shelters | 2,636 | 61.58 |
| 624229 | Other Community Housing Services | 1,649 | 60.07 |
| 624230 | Emergency and Other Relief Services | 876 | 60.23 |
| 711110 | Theater Companies and Dinner Theaters | 1,114 | 88.23 |
| 711120 | Dance Companies | 167 | 80.89 |
| 711130 | Musical Groups and Artists | 615 | 85.41 |
| 711190 | Other Performing Arts Companies | 99 | 88.42 |
| 711310 | Promoters of Performing Arts, Sports, and Similar Events with Facilities | 727 | 93.89 |
| 711320 | Promoters of Performing Arts, Sports, and Similar Events without Facilities | 456 | 67.45 |
| 712110 | Museums | 1,377 | 81.16 |
| 712120 | Historical Sites | 234 | 70.20 |
| 713950 | Bowling Centers | 2,721 | 59.54 |
| 713990 | All Other Amusement and Recreation Industries | 192 | 52.86 |

TABLE III-6A—ECONOMIC IMPACTS OF INDUSTRIES THAT INCLUDE ESTABLISHMENTS THAT WOULD BE NEWLY REQUIRED TO KEEP RECORDS—Continued

| NAICS Code | NAICS Industry description | Affected establishments | Cost per affected establishment |
|--------------|---|-------------------------|---------------------------------|
| 722310 | Food Service Contractors | 19,247 | 63.89 |
| 722320 | Caterers | 3,132 | 71.09 |
| 812921 | Photofinishing Laboratories (except One-Hour) | 429 | 72.40 |
| 812922 | One-Hour Photofinishing | 172 | 56.80 |
| 812990 | All Other Personal Services | 897 | 57.74 |
| Totals | | 198,763 | 81.63 |

Source: OSHA, Office of Regulatory Analysis.

IV. OMB Review Under the Paperwork Reduction Act of 1995

This proposal would revise an existing collection of information as defined and covered by the Paperwork Reduction Act of 1995 and its implementing regulations. An ongoing information collection approved by OMB under the provisions of the Paperwork Reduction Act currently includes the type of information collected in this proposed regulation, as well as the manner in which employers collect the information. Accordingly, OMB approved the information collections associated with the requirements to maintain information on fatalities, injuries, and illnesses, and to report and submit this information to OSHA, under the Control Number 1218-0176. The current regulation at 29 CFR 1904.39 requires an employer to report to OSHA, within eight hours, all work-related fatalities and in-patient hospitalizations of three or more employees. The proposed rule would require employers to report to OSHA, within eight hours, all work-related fatalities and work-related in-patient hospitalizations (regardless of the number of employees involved), and, within 24 hours, all work-related amputations. The proposal also would update Appendix A to 29 CFR part 1904, subpart B, of its injury and illness recording and reporting regulations. Appendix A contains a list of industries that are partially exempt from maintaining records of occupational injuries and illnesses, generally due to their relatively low rates of occupational injury and illness. OSHA based the current list of industries on the Standard Industrial Classification (SIC) system. In 1997, the North American Industry Classification System (NAICS) was introduced to classify establishments by industry. The proposed rule would update Appendix A by replacing it with a list of industries based on NAICS and more recent injury and illness data.

OSHA prepared and submitted a revised Information Collection Request (ICR) for this proposed regulation to OMB for review in accordance with 44 U.S.C. 3507(d). The Agency solicits comments on the proposed revised collection of information requirements and the estimated burden hours associated with these requirements, including comments on the following items:

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

As required by 5 CFR 1320.5(a)(1)(iv) and 1320.8(d)(2), the following paragraphs provide information about this ICR.

1. *Title:* 29 CFR Part 1904 Recordkeeping and Reporting Occupational Injuries and Illnesses
2. *Number of respondents:* OSHA is proposing to revise the list of partially exempt industries in Appendix A of 29 CFR 1904, subpart B, using the North American Industry Classification System (NAICS). OSHA based the revised list in proposed Appendix A on DART rates compiled by the Bureau of Labor Statistics (BLS) for 2007, 2008, and 2009. The Agency still would require industries listed in proposed Appendix A to maintain records if requested to do so by BLS in connection with its Annual Survey (see 29 CFR 1904.42), or by OSHA in connection with its Data Initiative (see 29 CFR 1904.41). OSHA estimates that, as a result of the proposed revisions to the

list of industries partially exempt from the regulation, 199,000 establishments with 5.3 million employees not previously required to record the information would need to do so, and that those establishments would record an estimated 173,000 injuries and illnesses per year. The total number of respondents is 1,665,374.

2. *Frequency of responses:* Annually; on occasion.

3. *Number of responses:* 7,449,273.

4. *Average time per response:* Time per response varies from three minutes for making an entry on a confidential list of privacy-concern cases (see § 1904.29(b)(6)), to one hour to learn the requirements of the recordkeeping standard.

5. *Estimated total burden hours:* 3,355,105 hours.

6. *Estimated costs (capital-operation and maintenance):* There are no capital costs for the proposed collection of information requirements.

Members of the public may comment on the paperwork requirements in this proposed regulation by sending their written comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, OSHA (Regulation Identifier Number (RIN) 1218-AC50), Office of Management and Budget, Room 10235, Washington, DC 20503; telephone: 202-395-6929; fax: 202-395-6881 (these are not toll-free numbers); e-mail:

OIRA_submission@omb.eop.gov. OSHA encourages commenters also to submit their comments on these paperwork requirements to the rulemaking docket along with their comments on other parts of the proposed regulation. For instructions on submitting these comments to the docket, see the sections of this **Federal Register** notice titled **DATES** and **ADDRESSES**’ Comments submitted in response to this notice are public records; therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and dates of birth. To

access the docket to read or download comments and other materials related to this paperwork determination, including the complete information collection request (ICR), use the procedures described under the section of this notice titled **ADDRESSES**. You may obtain an electronic copy of the complete ICR by visiting the Web site at <http://www.reginfo.gov/public/do/PRAMain>, then scroll under “Currently Under Review” to “Department of Labor (DOL)” to view all of the DOL’s ICRs, including those ICRs submitted for proposed rulemakings. To make inquiries, or to request other information, contact Mr. Todd Owen, Directorate of Standards and Guidance, OSHA, Room N-3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222. OSHA notes that a Federal agency cannot (1) conduct or sponsor a collection of information unless OMB approves it under the PRA and displays a currently valid OMB control number, and (2) require a party to respond to a collection of information unless the collection of information displays a currently valid OMB control number. Also, notwithstanding any other provision of law, no party shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. OSHA will publish a notice of OMB’s action when it publishes the final regulation.

V. Unfunded Mandates

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*), as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in increased expenditures by state, local, and Tribal governments, or increased expenditures by the private sector of more than \$100 million.

VI. Federalism

The proposed rule has been reviewed in accordance with Executive Order 13132 (52 FR 41685), regarding federalism. Because this rulemaking involves a “regulation” issued under Sections 8 and 24 of the OSH Act, and is not an “occupational safety and health standard” issued under Section 6 of the OSH Act, the rule will not preempt state law (29 U.S.C. 667(a)). The effect of the proposed rule on states is discussed in section VIII. State Plan States.

VII. State Plan States

Consistent with Section 18 of the OSH Act (29 U.S.C. 667) and the

requirements of 29 CFR 1904.37 and 1952.4, within 6 months after publication of the final OSHA rule, state-plan states must promulgate occupational injury and illness recording and reporting requirements that are the same as the Federal requirements for determining which injuries and illnesses will be entered into the records and how they are entered. All other injury and illness recording and reporting requirements that are promulgated by state-plan states may be more stringent than, or supplemental to, the Federal requirements, but, because of the unique nature of the national recordkeeping program, states must consult with OSHA and obtain approval of such additional or more stringent reporting and recording requirements to ensure that they will not interfere with uniform reporting objectives.

There are 27 state plan states and territories. The states and territories that cover private sector employers are: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. Connecticut, Illinois, New Jersey, New York, and the Virgin Islands have OSHA approved state plans that apply to state and local government employees only.

VIII. Public Participation

This rulemaking is governed by the notice and comments requirements in the Administrative Procedure Act (APA)(5 U.S.C. 553) rather than section 6 of the OSH Act (29 U.S.C. 655) and 29 CFR Part 1911, which only apply to “promulgating, modifying or revoking occupational safety and health standards” (29 CFR part 1911). For example, section 6(b)(3) of the OSH Act and 29 CFR 1911.11 state that the requirement to hold an informal public hearing on a proposed rule only applies to rulemakings on occupational safety and health standards, not to those dealing with regulations.

Section 553(b)(1) of the APA requires the agency to specify the type of rule involved, the time during which the agency will receive comments on the proposal, and the instructions regarding the procedures for submitting comments. The APA does not specify a minimum period for submitting comments.

Public Submissions

OSHA invites comment on all aspects of the proposed rule. OSHA specifically encourages comment on the questions

raised in the issues and potential alternatives sections of this preamble. Interested persons must submit comments by September 20, 2011. The Agency will carefully review and evaluate all comments, information, and data, as well as all other information in the rulemaking record, to determine how to proceed.

You may submit comments in response to this document (1) electronically at <http://www.regulations.gov>, which is the Federal e-rulemaking portal; (2) by fax; or (3) by hard copy. All submissions must identify the Agency name and the OSHA docket number (Docket No. OSHA-2010-0019) or RIN (RIN No. 1218-AC50) for this rulemaking. You may supplement electronic submissions by uploading document files electronically. If, instead, you wish to mail additional materials in reference to an electronic or fax submission, you must submit three copies to the OSHA docket office (see **ADDRESSES** section). The additional materials must clearly identify your electronic comments by name, date, and docket number, so OSHA can attach them to your comments.

Because of security-related procedures, the use of regular mail may cause a significant delay in the receipt of submissions. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA docket office at (202) 693-2350 (TTY (877) 889-5627).

Access to Docket

Comments in response to this **Federal Register** notice are posted at <http://www.regulations.gov>, the Federal e-rulemaking portal. Therefore, OSHA cautions individuals about submitting personal information such as social security numbers and birthdates. Although submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through that Web site. All comments and exhibits, including copyrighted material, are available for inspection and copying at the OSHA docket office. Information on using <http://www.regulations.gov> to submit comments and access dockets is available on that Web site. Contact the OSHA docket office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

Electronic copies of this **Federal Register** document are available at

<http://www.regulations.gov>. This document, as well as news releases and other relevant information, also are available at OSHA's Web page at <http://www.osha.gov>. For specific information about OSHA's Recordkeeping rule, go the Recordkeeping page on OSHA's Web page.

IX. Authority and Signature

This document was prepared under the direction of Dr. David Michaels, Assistant Secretary 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), 5 U.S.C. 553, and Secretary of Labor's Order 4-2010 (75 FR 55355, 9/10/2010)

List of Subjects in 29 CFR Part 1904

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

Signed at Washington, DC on June 15, 2011.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

X. Proposed Rule

Part 1904 of Title 29 of the Code of Federal Regulations is hereby proposed to be 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 as follows:
 - A. Revise paragraph (a)(1).
 - B. Remove paragraph (b)(1).
 - C. Redesignate paragraphs (b)(2) and (b)(3) as (b)(1) and (b)(2).
 - D. Revise newly designated paragraphs (b)(1) and (b)(2).
- The revisions read as follows:

§ 1904.2 Partial exemption for establishments in certain industries.

(a) * * *

(1) If your business establishment is classified in a specific industry subsector listed in Appendix A to this Subpart B, 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 a fatality, an amputation, or the in-patient hospitalization of an employee (see § 1904.39).

* * * * *

(b) * * *

(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 exempt.

(2) *How do I determine the correct NAICS code for my business?* The NAICS was designed and documented in such a way to allow business establishments to self-code. There are a number of tools and references available to help you to determine the most appropriate NAICS code for your business from the U.S. Census Bureau at <http://www.census.gov>. You may contact your nearest OSHA office or state agency for help in determining your NAICS code.

* * * * *

3. Revise Appendix A to subpart B of part 1904 to read as follows:

Appendix A to Subpart B of Part 1904 (Non-Mandatory)—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 workplace incident that results in a fatality, in-patient hospitalization, or amputation (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. |
| 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 of 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. |

| NAICS Code | Industry |
|------------|--|
| 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. |
| 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. Amend § 1904.39 as follows:
 A. Revise paragraphs (a), (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), and (b)(7).
 B. Add paragraph (b)(8).
 The revisions and addition should read as follows:

§ 1904.39 Reporting fatalities and multiple hospitalization incidents to OSHA.

(a) *Basic Requirement.* Within eight (8) hours after the death of any

employee from a work-related incident, within eight (8) hours after the in-patient hospitalization of any employee as a result of a work-related incident, and within twenty-four (24) hours after an amputation suffered by an employee as a result of a work-related incident, you must orally report the incident by telephone or in person to the nearest Area Office of the Occupational Safety and Health Administration (OSHA),

U.S. Department of Labor. You may also use the OSHA toll-free central telephone number, 1-800-321-OSHA (1-800-321-6742).

(b) * * *

(1) *If the Area Office is closed, may I report the incident by leaving a message on OSHA's answering machine, faxing the area office, or sending an e-mail?*
 No, if you can't talk to a person at the Area Office, you must report the fatality, in-patient hospitalization, or

amputation incident using the 800 number.

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

- (i) The establishment name;
- (ii) The location of the incident;
- (iii) The time of the incident;
- (iv) The number of fatalities or hospitalized employees or amputations;
- (v) The names of any injured employees;
- (vi) Your contact person and his or her phone number; and
- (vii) A brief description of the incident.

(3) *Do I have to report every fatality or in-patient hospitalization or amputation incident resulting from a motor vehicle accident?* No, you do not have to report all of these incidents. If the motor vehicle accident occurs on a public street or highway, and does not occur in a construction work zone, you do not have to report the incident to OSHA. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) *Do I have to report a fatality or in-patient hospitalization or amputation incident that occurs on a commercial or public transportation system?* No, you do not have to call OSHA to report a fatality or hospitalization or amputation incident if it involves a commercial airplane, train, subway, or bus accident. However, these injuries must be recorded on your OSHA injury and illness records, if you are required to keep such records.

* * *

(6) *Do I have to report a fatality or in-patient hospitalization or amputation that occurs long after the incident?* No, you must only report each fatality or in-patient hospitalization or amputation that occurs within thirty (30) days of an incident.

(7) *What if I don't learn about an incident right away?* If you do not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, you must make the report within eight (8) hours (for a fatality or an in-patient hospitalization) or twenty four (24) hours (for an amputation) of the time the incident is reported to you or to any of your agent(s) or employee(s).

(8) *What types of injuries are counted as amputations?* For purposes of classifying occupational injuries and illnesses, amputations are defined by the Bureau of Labor Statistics in their Occupational Injury and Illness

Classification Manual. An amputation is the traumatic loss of a limb or other external body part, including a fingertip. In order for an injury to be classified as an amputation, bone must be lost. Amputations include loss of a body part due to a traumatic incident, a gunshot wound, and medical amputations due to irreparable traumatic injuries. Amputations exclude traumatic injuries without bone loss and exclude enucleation (eye removal).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2008-0384]

RIN 1625-AA00; 1625-AA08; 1625-AA87

Special Local Regulations; Safety and Security Zones; Recurring Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to remove, add, and consolidate special local regulations and establish permanent safety zones for annual recurring marine events as well as establish a permanent security zone in the Coast Guard Sector Long Island Sound Captain of the Port (COTP) Zone. When these special local regulations or safety zones are activated and subject to enforcement, this rule would restrict vessels from portions of water areas during these annual recurring events. The revised special local regulations and safety zones would expedite public notification of events, and ensure the protection of the maritime public and event participants from the hazards associated with these annual recurring events.

DATES: Comments and related material must be received by the Coast Guard on or before July 22, 2011.

Requests for public meetings must be received by the Coast Guard on or before June 29, 2011.

ADDRESSES: You may submit comments identified by docket number USCG-2008-0384 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of

Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Petty Officer Joseph Graun, Waterways Management Division at Coast Guard Sector Long Island Sound, telephone 203-468-4544, e-mail joseph.l.graun@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0384), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.