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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Labor and Industry/Safety and Health Codes Board
Virginia Administrative Code (VAC) citation(s)	16VAC25-85-1904.35; 16VAC25-85-1904.35(b)(2); 16VAC25-85-1904.36; and 16VAC25-85-1904.41
Regulation title(s)	Improve Tracking of Workplace Injuries and Illnesses
Action title	Final Rule to Improve Tracking of Workplace Injuries and Illnesses; and Correction to Employment Involvement §1904.35(b)(2)
Final agency action date	September 13, 2016
Date this document prepared	September 21, 2016

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This final rule makes several changes to the existing recording and reporting requirements under Part 1904. The final rule requires certain employers to electronically submit the injury and illness information they are already required to keep under existing OSHA regulations:

1. Establishments with 250 or more employees that are currently required to keep OSHA injury and illness records must electronically submit information from OSHA Forms 300 – *Log of Work-*

Related Injuries and Illnesses, 300A – Summary of Work-Related Injuries and Illnesses, and 301 – Injury and Illness Incident Report.

2. Establishments with 20 to 249 employees that are classified in certain industries with historically high rates of occupational injuries and illnesses must electronically submit annually information from OSHA Form 300A only.
3. Establishments with fewer than 20 employees at all times during the year do not have to routinely submit information electronically to OSHA. OSHA requires all employers who receive notification from OSHA to electronically submit the requested information from their injury and illness records to OSHA or OSHA's designee.
4. OSHA intends to post the data from these submissions on its secure, publicly accessible website at www.osha.gov. It will also remove any Personally Identifiable Information (PII) on the website before the data are released to the public.
5. Implementation Schedule - VOSH will comply with OSHA's phase-in of the implementation schedule of the new reporting requirements over two years and would use the same implementation dates. Virginia will match federal OSHA's compliance schedule. The key implementation dates are:
 - July 1, 2017 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from their 2016 OSHA 300A Forms. Employers with 20-249 employees in designated, high-risk industries will be responsible for electronically submitting information from their 2016 OSHA 300A Forms.
 - July 1, 2018 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from their 2017 OSHA 300, 301, and 300A Forms.
 - March 2, 2019 – Employers with 250 employees or more that are required to routinely submit information under the final rule will be responsible for submitting information from OSHA 300, 301, and 300A Forms. Employers with 20-249 employees in designated industries will be responsible for electronically submitting information from their OSHA 300A Forms.
6. Employees Involvement - §1904.35

This final rule also amends OSHA's recordkeeping regulation to update requirements on how employers inform employees to report work-related injuries and illnesses to their employer. Discrimination or retaliation against an employee who reports a fatality, injury, or illness is a violation of section 11(c) of the OSH Act. The VOSH equivalent is §40.1-51.2:1 and §40.1-51.2:2 of the *Code of Virginia*.

Under section 11(c), OSHA may not act against an employer unless an employee files a complaint. Under §1904.35 (v)(1)(iv) of the final rule, VOSH will be able to cite an employer for

taking adverse action against an employee for reporting an injury or illness, even if the employee did not file a complaint, (*See Attachments 1 & 2*). Additionally, citations can result in orders requiring employers to abate violations, which may be a more efficient tool to correct employer policies and practices than the 11(c), which is often employee-specific.

The final rule contains three new provisions in §1904.35 that will promote complete and accurate reporting of work-related injuries and illnesses while also expanding OSHA's anti-retaliation protections:

- Paragraphs (a)(2) and (b)(1)(iii) of §1904.35 require employers to inform employees of their right to report work-related injuries and illnesses free from retaliation. The final rule strengthens paragraph (a) of §1904.35 by expanding the previous requirement for employers to inform employees how to report work-related injuries and illnesses so that the rule now includes a mandate to inform employees that they have a right to report work-related injuries and illnesses free from retaliation by their employer. This obligation may be met by posting the OSHA *Job Safety and Health – It's The Law* worker rights poster from April 2015, or later.

OSHA also made a technical edit to paragraph (a)(3) of §1904.35 to clarify that the rights of employees and their representatives to access injury and illness records are governed by §1904.35(b)(2).

- Paragraph (b)(1)(i) of §1904.35 clarifies that the existing implicit requirement that an employer's procedure for reporting work-related injuries and illnesses must be reasonable and not deter or discourage employees from reporting; and
- Paragraph (b)(1)(iv) of §1904.35 incorporates explicitly into Part 1904 the existing prohibition on retaliation against employees for reporting work-related injuries or illnesses consistent with the existing prohibition contained in section 11(c) of the OSH Act. Three specific types of adverse employer actions that OSHA examined included: disciplinary policies, automatic post-accident drug testing, and employee incentive programs.

7. Other Significant Final Rule Changes

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

To ensure that the injury data on OSHA logs are accurate and complete, the final rule also promotes an employee's right to report injuries and illnesses without fear of retaliation, and clarifies that an employer must have a reasonable procedure for reporting work-related injuries that does not discourage employees from reporting. This aspect of the final rule targets employer programs and policies that, while nominally promoting safety, have the effect of discouraging workers from reporting injuries and, in turn, leading to incomplete or inaccurate records of workplace hazards.

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

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

8. Correction to Final Rule

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

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On September 13, 2016, the Safety and Health Codes Board adopted federal OSHA’s Final Rule to Improve Tracking of Workplace Injuries and Illnesses, §§1904.35, 1904.36, and 1904.41; Final Rule; and the Correction to §1904.35(b)(2), as authorized by Virginia Code §§ 40.1-22(5) and 2.2-4006.A.4(c), with an effective date of January 1, 2017, except for §§1904.35 and 1904.36, which become effective on December 1, 2016.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulatory action does not appear to have any impact on the institution of the family and family stability.

To access the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, §§1904.35, 1904.36, and 1904.41; Final Rule; and the Correction to §1904.35(b)(2), please click on the links below:

https://www.osha.gov/FedReg_osha_pdf/FED20160512.pdf; and
https://www.osha.gov/FedReg_osha_pdf/FED20160520.pdf

Attachment - 1

Public Law 91-596
84 STAT. 1590
91st Congress, S.2193
December 29, 1970,
as amended through January 1, 2004.

An Act

To assure safe and healthful working conditions for working men and women; by authorizing enforcement of the standards developed under the Act; by assisting and encouraging the States in their efforts to assure safe and healthful working conditions; by providing for research, information, education, and training in the field of occupational safety and health; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act of 1970."

* * *

SECTION 11. Judicial Review

* * *

(c)(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

CODE of VIRGINIA**§ 40.1-51.2:1. Discrimination against employee for exercising rights prohibited.**

No person shall discharge or in any way discriminate against an employee because the employee has filed a safety or health complaint or has testified or otherwise acted to exercise rights under the safety and health provisions of this title for themselves or others.

1979, Chapter 354.

§ 40.1-51.2:2. Remedy for discrimination.

A. Any employee who believes that he or she has been discharged or otherwise discriminated against by any person in violation of § [40.1-51.2:1](#) may, within 60 days after such violation occurs, file a complaint with the Commissioner alleging such discharge or discrimination. The employee shall be prohibited from seeking relief under this section if he fails to file such complaint within the 60-day time period. Upon receipt of such complaint, the Commissioner shall cause such investigation to be made as he deems appropriate. If, upon such investigation, he determines that the provisions of § [40.1-51.2:1](#) have been violated, he shall attempt by conciliation to have the violation abated without economic loss to the employee. In the event a voluntary agreement cannot be obtained, the Commissioner shall bring an action in a circuit court having jurisdiction over the person charged with the violation. The court shall have jurisdiction, for cause shown, to restrain violations and order appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay plus interest at a rate not to exceed eight percent per annum.

B. Should the Commissioner, based on the results of his investigation of the complaint, refuse to issue a charge against the person that allegedly discriminated against the employee, the employee may bring action in a circuit court having jurisdiction over the person allegedly discriminating against the employee, for appropriate relief.

1979, c. 354; 2001, c. [332](#); 2005, cc. [743](#), [789](#).

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

As Adopted by the
Safety and Health Codes Board

Date: _____



VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: _____

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

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

Federal Terms

VOSH Equivalent

29 CFR

VOSH Standard

Assistant Secretary

Commissioner of Labor and Industry

Agency

Department

January 1, 2017, except for:
August 10, 2016 for §1904.36
and November 1, 2016
for §1904.35

January 1, 2017, except for:
§§1904.35 and 1904.36
which become effective on
December 1, 2016

Final Rule

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

PART 1904—[AMENDED]

■ 2. Revise § 1904.35 to read as follows:

§ 1904.35 Employee involvement.

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

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

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

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

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

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

(iii) You must inform each employee that:

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

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

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

(2) [Reserved]

■ 3. Revise § 1904.36 to read as follows:

§ 1904.36 Prohibition against discrimination.

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

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

■ 5. Revise § 1904.41 to read as follows:

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

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

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

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

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

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

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

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

(ii) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****29 CFR Parts 1904 and 1902**

[Docket No. OSHA–2013–0023]

RIN 1218–AC49

Improve Tracking of Workplace Injuries and Illnesses; Correction**AGENCY:** Occupational Safety and Health Administration (OSHA), DOL.**ACTION:** Final rule; correction.

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

DATES: *Effective:* August 10, 2016.

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

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

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

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

Need for Correction

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

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

BILLING CODE 4510-26-P
