

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

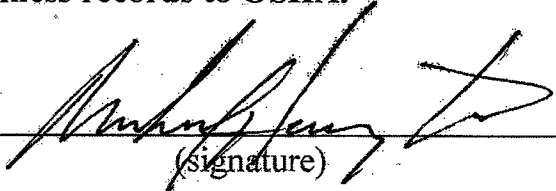
All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

 on 9.22.20
(signature) (date)

Printed Name and Title:
Michael Harrington, Commissioner
Vermont Department of Labor

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

RECEIVED
SEP 30 2020

BY:

Final Proposed Coversheet

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

20P-014

3. ADOPTING AGENCY:

Vermont Department of Labor

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Daniel A. Whipple

Agency: Vermont Occupational Safety and Health
Administration

Mailing Address: P.O. Box 488 Montpelier, VT 05601-0488

Telephone: 802 828 - 5084 Fax: 802 828 - 0408

E-Mail: dan.whipple@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<http://labor.vermont.gov/vosha/laws-regulations/>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Bailey Emilo

Agency: Vermont Occupational Safety and Health
Administration

Mailing Address: P.O. Box 488 Montpelier, VT 05601-0488

Telephone: 802 828 - 5085 Fax: 802 828 - 0408

E-Mail: bailey.emilo@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

Final Proposed Coversheet

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

21 VSA §§204, 224

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Vermont Occupational Safety and Health Administration (VOSHA) is charged by statute to promulgate and adopt rules previously adopted by the Federal Occupational Safety and Health Administration (OSHA).

9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

This rule is intended to more effectively protect the privacy of American workers. To protect worker privacy, the Occupational Safety and Health Administration (OSHA) is amending the recordkeeping regulation by rescinding the requirement for establishments with 250 or more employees to electronically submit information from OSHA Forms 300 and 301. These establishments will continue to be required to maintain those records on-site, and OSHA will continue to obtain them as needed through inspections and enforcement actions. This rule does not, however, remove the responsibility of covered employers to provide a copy of their OSHA 300A Summary annually as previously required.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Final Proposed Coversheet

It has been long a concern of covered employers that the requirement to submit "identifiable employee information" in the form of OSHA 300 (injury and illness logs) and OSHA 301 (injury/illness incident forms) could lead to a breach in a system and thereby expose the otherwise protected information. In addition, the requirement to annually produce and submit these forms takes additional effort and can be costly for covered employers. After evaluating the practicality of both concerns, OSHA has concluded that the benefit of obtaining this information do not outweigh the risk of breach and cost to produce and upload the information annually.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule was previously adopted by Federal OSHA. In order for VOSHA to maintain programs at least as effective as OSHA, VOSHA is compelled to adopt the amended standard as well.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

This rule affects all Non-Federal Employers in the state of Vermont with 250 or more employees within a calendar year. Covered employees include full time, part time, contract, or any other employee designation recognized.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

As this rule relaxes a specific (and tedious) portion of an existing rule, it is expected that the economic impact for employers will be a net positive. In fact OSHA reported in the Federal Register the following; "In its preliminary economic analysis (PEA) in the proposal, OSHA estimated that this rule would have net cost savings of \$8.28 million per year at a 3 percent discount rate, including \$8.23 million per year for the private sector and \$52,754 per year for the government." Information concerning economic impact of this rule can further be found at <https://labor.vermont.gov/vermont-occupational-safety-and-health-administration-vosha/rules-publications/rules-regulations>

Final Proposed Coversheet

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

6/22/2020 RJC

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

OSHA Recordkeeping

1904

Mandatory reporting

OSHA 300 and 301

Electronic Submission

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. ADOPTING AGENCY:

Vermont Department of Labor

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE**

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Log #17-053 Updates and Improvements in Recordkeeping,
09-12-2017

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: March 9, 2020, Pavilion Building, 4th floor conference room, 109 State Street, Montpelier, VT 05609

Members Present: Dirk Anderson (serving as Chair), Diane Bothfeld, John Kessler, Matt Langham, Clare O'Shaughnessy, and Shayla Livingston and Jennifer Mojo via phone

Members Absent: Chair Brad Ferland, Ashley Berliner, and Steve Knudson

Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the February 10, 2020 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-5 to follow.
 1. VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA, Department of Labor, page 2
 2. Underground Storage Tank (UST) Rules, Agency of Natural Resources, Department of Environmental Conservation, page 3
 3. Special Education Finance and Census-Based Funding, Vermont State Board of Education, page 4
 4. Special Education Rules, Part B (Ages 3-22) and C (Birth to Age 3), Vermont State Board of Education, page 5
- Next scheduled meeting is April 13, 2020 at 2:00 p.m.
- 2:38 p.m. meeting adjourned.

Proposed Rule: VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA, Department of Labor
Presented by Dan Whipple

Motion made to accept the rule by Matt Langham, seconded by John Kessler, and passed unanimously except for Dirk Anderson who abstained, with the following recommendations:

1. Proposed Rule Coversheet, page 4, #12: Provide a link to the Federal Register.
2. Proposed Rule Coversheet, pages 4-5, #14-15: Complete.
3. Adopted Rule Filing: Remove as it's not needed for ICAR.
4. Public Input, page 1, #3: Include URL for website address and add department's phone number.
5. Scientific Information: Remove as it's not applicable.
6. Incorporation by Reference: Remove as it's not applicable.

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. ADOPTING AGENCY:

Vermont Department of Labor

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

This rule affects all Non-Federal Employers in the state of Vermont with 250 or more employees within a calendar year. Covered employees include full time, part time, contract, or any other employee designation recognized.

4. IMPACT ON SCHOOLS:

Economic Impact Analysis

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

This rule would have a limited impact on schools and would only impact those schools that employed 250 or more employees. Those impacts would be a net positive in that less time would be needed to be used for gathering these forms and uploading them electronically.

5. *ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

No alternatives were considered

6. *IMPACT ON SMALL BUSINESSES:*

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

This rule only impacts businesses with 250 or more employees in the calendar year.

7. *SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

The impacts of this rule are considered a net positive in time and effort, therefore would save covered employers money.

8. *COMPARISON:*

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

No comparison was considered

9. *SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

The economic impact study was published in the Federal Register and was completed as part of the original rulemaking process at the federal level.

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. ADOPTING AGENCY:

Vermont Department of Labor

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact anticipated

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact anticipated

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact anticipated

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
No impact anticipated

Environmental Impact Analysis

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No Impact anticipated

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No other impact anticipated

9. *SUFFICIENCY: EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

This rule change pertains to administrative and records changes and therefore does not have any impact on the above mentioned subjects.

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. ADOPTING AGENCY:

Vermont Department of Labor

3. PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:

This rule will be posted on the Vermont Department of Labor's website at <https://labor.vermont.gov/vermont-occupational-safety-and-health-administration-vosha/rules-publications>, and notice will be sent to stakeholder groups and a list-serve which reaches hundreds of employers and employee groups. Finally notice will be posted as required by the Secretary of State. VOSHA will hold a public hearing to allow any comments on the proposed rule. Comments can be submitted by phone at 802-828-5084.

4. PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

A public hearing will be scheduled and announced. The proposed rule will be publicly available for viewing on the Vermont Department of Labor's website.

5. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

The development of the proposed rule was completed at the federal level. As such, it followed a lengthy

Public Input

process of comment at the national level. Vermont employers and employees are allowed to comment on these rules as they are being adopted.

Administrative Procedures – Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

VOSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

2. ADOPTING AGENCY:

Vermont Department of Labor

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

This rule filing incorporates by reference all of 29 CFR 1904 - RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

29 CFR 1904

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

Copies of this standard can be obtained by accessing the OSHA website at <https://www.osha.gov/laws-regs/regulations/standardnumber/1904/>

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

Incorporation By Reference

This rule filing deletes former language; 24 050 016.
29 CFR 1904, UPDATES AND IMPROVEMENTS IN RECORDKEEPING

Run Spell Check



State of Vermont

Department of Labor

Workers' Compensation and Safety Division

5 Green Mountain Drive

P.O. Box 488

Montpelier, VT 05601-0488

www.labor.vermont.gov

[phone] 802-828-2286
[fax] 802-828-2195 or
802-828-0408
[tty] 800-650-4152

VOSHA Rule Public Hearing

VOSHA Rule: 1904.41 Electronic submission of Injury and Illness records to OSHA

When: Friday June 12, 2020

Where: By PHONE ONLY contact 802-828-5084

Time: 2:00pm – 3:00pm

§ 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.~~

Basic requirements

1904.41(a)(1)

Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses 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 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 (for example, 2019 for the 2018 form).

(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.

1904.41(b)(1)

Does every employer have to routinely submit this information to OSHA? No, only two categories of employers must routinely submit this information. 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 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 this subpart, then you must submit the required 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 (for example, 2019 for the 2018 form). If you are not in either of these two categories, then you must submit the information 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).~~

1904.41(b)(2)

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.

~~(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.~~

1904.41(b)(3)

How will OSHA notify me that I must submit information 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 website. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(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.

1904.41(b)(4)

When do I have to submit the information? 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 (for example, 2019 for the 2018 form). 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 specified in the notification.

(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.

1904.41(b)(5)

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

(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.

1904.41(b)(6)

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 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.

(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.

1904.41(b)(7)

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.

~~(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.~~

1904.41(b)(8)

May an enterprise or corporate office electronically submit information 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) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

~~(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).

Clean
Copy

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

1904.41(a)

Basic requirements

1904.41(a)(1)

Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses 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 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 (for example, 2019 for the 2018 form).

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. 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.

1904.41(a)(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.

1904.41(a)(4)

Electronic submission of the Employer Identification Number (EIN). For each establishment that is subject to these reporting requirements, you must provide the EIN used by the establishment.

1904.41(b)

Implementation—

1904.41(b)(1)

Does every employer have to routinely submit this information to OSHA? No, only two categories of employers must routinely submit this information. 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 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 this subpart, then you must submit the required 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 (for example, 2019 for the 2018 form). If you are not in either of these two categories, then you must submit the information to OSHA only if OSHA notifies you to do so for an individual data collection.

1904.41(b)(2)

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.

1904.41(b)(3)

How will OSHA notify me that I must submit information 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 website. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

1904.41(b)(4)

When do I have to submit the information? 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 (for example, 2019 for the 2018 form). 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 specified in the notification.

1904.41(b)(5)

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

1904.41(b)(6)

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 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.

1904.41(b)(7)

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.

1904.41(b)(8)

May an enterprise or corporate office electronically submit information 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) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

1904.41(c)

(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).

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 21 : Labor****Chapter 003 : Safety****Subchapter 004 : General Provisions**

(Cite as: 21 V.S.A. § 204)

§ 204. Rules and procedure

(a) 3 V.S.A. chapter 25, relating to administrative procedure, shall apply to this chapter and the VOSHA Code.

(b) All or part of a printed publication of standards or rules, including standards promulgated under the Act, may be made a rule or part of a rule under this chapter or the VOSHA Code, by reference in the rule to the printed publication by its title and where it may be procured at the time the rule is promulgated under this chapter. (Added 1971, No. 205 (Adj. Sess.), § 1.)

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 21 : Labor****Chapter 003 : Safety****Subchapter 005 : Occupational Safety And Health**

(Cite as: 21 V.S.A. § 224)

§ 224. Rules and standards

(a) The Commissioner shall adopt rules and standards necessary to implement the purposes and duties set forth in this subchapter insofar as they relate to safety and to enforcement of the VOSHA Code.

(b) The Commissioner, in consultation with the Secretary of Human Services, shall adopt rules and standards necessary to implement the purposes of the VOSHA Code and duties thereunder, insofar as they relate to health.

(c) Any standard adopted under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to inform employees of all safety or health hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure. Where appropriate, a rule shall prescribe suitable protective clothing, devices, or equipment which shall be provided by the employer, and control or technological procedures to be used in connection with the safety or health hazard; and shall provide for monitoring or measuring employee exposure at such locations and intervals and in such manner as may be necessary for the protection of employees.

(d) Where appropriate, a standard adopted in consultation with the Secretary of Human Services may prescribe the type and frequency of medical examinations or other tests which shall be made available by an employer or at the expense of the employer, to employees exposed to health hazards in employment, in order to effectively determine whether the health of the employee is adversely affected by exposure to the hazard. In the event medical examinations are in the nature of research, as determined by the Secretary of Human Services, such examinations may be furnished at the expense of the State. The results of the examinations or tests shall be furnished only to the Secretary of Human Services, the Commissioner of Health, the Director of Occupational Health, the Commissioner of Labor, and at the request of the employee, to the employee's physician and the employee.

(e) The Commissioner, in consultation with the Secretary, in adopting standards dealing with toxic materials or harmful physical agents under this section, shall set the standard

which most adequately ensures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his or her working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of safety and health protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other safety and health laws. Whenever practicable, the standard adopted shall be expressed in terms of objective criteria and of the performance desired. (Added 1971, No. 205 (Adj. Sess.), § 1; amended 1973, No. 214 (Adj. Sess.), § 18; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006; 2015, No. 23, § 119; 2015, No. 87 (Adj. Sess.), § 2; 2015, No. 97 (Adj. Sess.), § 54.)

Vermont

which
and
ever
one
be
be a
and
and
and
and
§ 1
20



Proposed Rules Postings

A Service of the Office of the Secretary of State

- [Vermont.gov](#)
- [Feedback](#)
- [SOS Website](#)
- [APA Site](#)
- [Code of Vermont Rules](#)
- [Recent](#)
- [Search Rules](#)
- [Calendar](#)
- [Subscribe](#)
- [APA Contact Info](#)

Search Rules

Deadline For Public Comment

Deadline: Jun 22, 2020

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number: 20P014

Title: VOSHA Rule: Section 29 CFR 1904.41
Electronic Submission of Injury and Illness
Records to OSHA.

Type: Standard

Status: Proposed

Agency: Department of Labor

Legal Authority: 21 V.S.A. §§ 204, and 224.

Summary: This rule is intended to more effectively protect the privacy of American workers. To protect worker privacy the Occupational Safety and

Health Administration (OSHA) is amending the recordkeeping regulation by rescinding the requirement for establishments with 250 or more employees to electronically submit information from OSHA Forms 300 and 301. These establishments will continue to be required to maintain those records on-site, and OSHA will continue to obtain them as needed through inspections and enforcement actions. This rule does not, however, remove the responsibility of covered employers to provide a copy of their OSHA 300A Summary annually as previously required.

Persons Affected:

This rule affects all Non-Federal Employers in the state of Vermont with 250 or more employees within a calendar year. Covered employees include full time, part time, contract, or any other employee designation recognized.

Economic Impact:

As this rule relaxes a specific (and tedious) portion of an existing rule, it is expected that the economic impact for employers will be a net positive. In fact OSHA reported in the Federal Register the following; "In its preliminary economic analysis (PEA) in the proposal, OSHA estimated that this rule would have net cost savings of \$8.28 million per year at a 3 percent discount rate, including \$8.23 million per year for the private sector and \$52,754 per year for the government." Information concerning economic impact of this rule can further be found at <https://labor.vermont.gov/vermont-occupational-safety-and-health-administration-vosha/rules-publications/rules-regulations>.

Posting date:

May 06,2020

Hearing Information

Information for Hearing # 1

Hearing date:

06-12-2020 2:00 PM ~~REDACTED~~

Location:

BY PHONE ONLY - contact 802-828-5084

Address:

Dept. of Labor, 5 Green Mountain Drive, PO Box 488

City:

Montpelier

State: VT
Zip: 05601
Hearing Notes:

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary
Name: Daniel A. Whipple
Agency: Vermont Occupational Safety and Health Administration,
Department of Labor
Address: PO Box 488
City: Montpelier
State: VT
Zip: 05601-0488
Telephone: 802-828-5084
Fax: 802-828-0408
Email: dan.whipple@vermont.gov

[SEND A COMMENT](#)

Website: <http://labor.vermont.gov/vosha/laws-regulations/>
Address: [VIEW WEBSITE](#)

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
Name: Bailey Thibault
Agency: Vermont Occupational Safety and Health Administration,
Department of Labor
Address: PO Box 488
City: Montpelier
State: VT
Zip: 05601-0488
Telephone: 802-828-5085
Fax: 802-828-0408

Email: bailey.thibault@vermont.gov

Keyword Information

Keywords:

OSHA Recordkeeping

1904

Mandatory reporting

OSHA 300 and 301

Electronic Submission

[Back](#)

[Accessibility Policy](#) | [Privacy Policy](#)

A Vermont Government Website Copyright 2020 State of Vermont



v 1.0.2

2020

Ver

1.0

4 of 4

OFFICE OF THE SECRETARY OF STATE
VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION
(802) 828-2863

TO: Burlington Free Press Dave Heney (dheney@freepressmedia.com)	Tel: 863-3441 FAX: 863-4702 Attn: Display Ads
The Caledonian Record Julie Poutré (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
Times Argus / Rutland Herald The Times Argus (classifieds@timesargus.com) Rick Root (rick.root@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
The Valley News (advertising@vnews.com)	Tel: 800-874-2226 or 603-298-6082 FAX: 603-298-0212
The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com)	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 525-3200
Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
Newport Daily Express (jsmith@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn:
News & Citizen (lisa@newsandcitizen.com) Irene Nuzzo (irene@newsandcitizen.com and ads@stowereporter.com removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173 Attn: Lisa Stearns
St. Albans Messenger Ben Letourneau (ben.letourneau@samessenger.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Ben Letourneau
The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: Louise Corliss, APA Clerk **Date of Fax:** October 14, 2020

RE: The "Proposed State Rules " ad copy to run on **May 14, 2020**

PAGES INCLUDING THIS COVER MEMO: **2**

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact Louise Corliss at 802-828-2863, or E-Mail louise.corliss@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

OSHA Rule: Section 29 CFR 1904.41 Electronic submission of injury and illness records to OSHA.

Vermont Proposed Rule: 20P014

AGENCY: Department of Labor

CONCISE SUMMARY: This rule is intended to more effectively protect the privacy of American workers. To protect worker privacy the Occupational Safety and Health Administration (OSHA) is amending the recordkeeping regulation by rescinding the requirement for establishments with 250 or more employees to electronically submit information from OSHA Forms 300 and 301. These establishments will continue to be required to maintain those records on-site, and OSHA will continue to obtain them as needed through inspections and enforcement actions. This rule does not, however, remove the responsibility of covered employers to provide a copy of their OSHA 300A Summary annually as previously required.

FOR FURTHER INFORMATION, CONTACT: Daniel A. Whipple, Vermont Occupational Safety and Health Administration, PO Box 488 Montpelier, VT 05601-0488 Tel: 802-828-5084 Fax: 802-828-0408 Email: dan.whipple@vermont.gov URL: <http://labor.vermont.gov/vosha/laws-regulations/>.

FOR COPIES: Bailey Emilo, Vermont Occupational Safety and Health Administration PO Box 488 Montpelier, VT 05601-0488 Tel: 802-828-5085 Fax: 802-828-0408 Email: bailey.emilo@vermont.gov.

AGENCY:

PROPOSED

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS

RECORDS