

## Final Proposed Filing - Coversheet

### 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 shall 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:

**Improved Tracking of Workplace Injuries and Illnesses**

\_\_\_\_\_/s/ Michael Harrington\_\_\_\_\_, on 5/23/2024  
(signature) (date)

Printed Name and Title:  
Michael Harrington, Commissioner

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

1. TITLE OF RULE FILING:

**Improved Tracking of Workplace Injuries and Illnesses**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE  
**24P015**

3. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

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: 828-508-4 Fax: 828-0408

E-Mail: dan.whipple@vermont.gov

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

<https://labor.vermont.gov/sites/labor/files/documents/1904%20Plain%20Text%20%281%29.pdf>

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: Karl P. Hayden

Agency: Vermont Occupational Safety and Health  
Administration

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

Telephone: 828-508-5 Fax: 828-0408

E-Mail: karl.hayden@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:

*(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:

21 VSA §§204, 224, Directs the Vermont Occupational Safety and Health Administration, (VOSHA) to promulgate rules related to the safety and health of Vermont Workers.

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):

OSHA is amending its occupational injury and illness recordkeeping regulation to require certain employers to electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. Specifically, OSHA is amending its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. OSHA will not collect employee names or addresses, names of health care professionals, or names and addresses of facilities where treatment was provided if treatment was provided away from the worksite from the Forms 300 and 301. OSHA intends to post this information - after redacting appropriate personal and medically protected information - on its website accessible by the public.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

OSHA has determined that the data collection will assist the agency in its statutory mission to assure safe and healthful working conditions for working people (see 29 U.S.C. 651(b)). In addition, OSHA has determined that the expanded public access to establishment-specific, case-specific injury and illness data will allow employers, employees, potential employees, employee representatives, customers, potential customers, researchers, and the general public to make more informed decisions about workplace safety and health at a given establishment. OSHA believes that this accessibility will ultimately result in the reduction of occupational injuries and illnesses.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

This rule was previously adopted by Federal OSHA. VOSHA, as part of the agreement allowing full jurisdiction, as a state plan state, has agreed to maintain programs at least as effective as OSHA. By this agreement VOSHA is compelled to adopt the amended standard or a more affective standard as well.

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

This rule affects non-federal establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. This rule is in addition to, and does not affect the following: Establishments with 20 to 249 employees in certain industries will continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year. All establishments with 250 or more employees that are required to keep records under OSHA's injury and illness regulation will also continue to be required to electronically submit information from their Form 300A to OSHA on an annual basis.

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

OSHA estimates that this rule will have economic costs across the complete spectrum of mandated reporters, of \$7.7 million per year. These costs include \$7.1 million per year to become familiar with the rule's

requirements, update software, and submit forms electronically to OSHA, and \$0.6 million per year to the government for processing the data, updating and maintaining software, and providing additional IT support. OSHA estimates average costs of \$136 per year for affected establishments (those with 100 or more employees in NAICS industries listed on appendix B of subpart E of part 1904), annualized over 10 years with a discount rate of seven percent.

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: 4/29/2024

Time: 10:00 AM

Street Address: 5 Green Mountain Drive

Zip Code: 05601

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_ODEzMTJjODYtYjZhZi00MWUxLThkNmQtY2IyMzJlOGVhYjdm%40thread.v2/0?context=%7b%22Tid%22%3a%220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22c288a691-5458-46ff-b616-bea179cbb066%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODEzMTJjODYtYjZhZi00MWUxLThkNmQtY2IyMzJlOGVhYjdm%40thread.v2/0?context=%7b%22Tid%22%3a%220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22c288a691-5458-46ff-b616-bea179cbb066%22%7d)

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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

5/10/2024

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

VOSHA 1904 updates

Improvements in Recordkeeping

Reporting OSHA 300 and 301

Recordkeeping updates

## 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.

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1. TITLE OF RULE FILING:

**Improved Tracking of Workplace Injuries and Illnesses**

2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

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 if 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*):

SOS Log #21-002 February 24, 2021, 29 CFR 1904, UPDATES AND IMPROVEMENTS IN RECORDKEEPING



## INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

**Meeting Date/Location:** February 23, 2024, virtually via Microsoft Teams

**Members Present:** Chair Sean Brown, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski, Nicole Dubuque, Jared Adler (voted on the 1<sup>st</sup> two rules only then exited meeting at 1:55 PM), Natalie Weill (did not vote)

**Minutes By:** Melissa Mazza-Paquette

- 1:01 p.m. meeting called to order, welcome and introduction of newest Committee member Natalie Weill who will begin voting at the next ICAR meeting.
- Review and approval of [minutes](#) from the January 8, 2024 meeting.
- No additions/deletions to agenda.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  - 1) Aboveground Storage Tank Rules, Agency of Natural Resources, Department of Environmental Conservation, page 2
  - 2) Unused Drug Repository Rule, Agency of Human Services, Department of Health, page 3
  - 3) Improved Tracking of Workplace Injuries and Illnesses, Vermont Department of Labor, page 4
  - 4) Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health, page 5
  - 5) Rule 3.300 Disconnection of Residential Gas, Electric and Water Service, Vermont Public Utility Commission, page 6
  - 6) Rule 3.400 Disconnection of Cable Television Service and Non-Residential Electric, Gas and Water Service, Vermont Public Utility Commission, page 7
- Other business:
  - Diane will create draft public guidance for the Committee's review at a future meeting to aid those filing proposed rules.
- Next scheduled meeting is Monday, March 11, 2024 at 2:00 p.m.
- 3:02 p.m. meeting adjourned.



**Presented By:** Dan Whipple and Karl Hayden

Motion made to accept the rule by Sean Brown, seconded by John Kessler, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet, #10: Include information pertaining to the loss of jurisdiction to the federal government; or staying in compliance with our state plan.
2. Economic Impact Analysis:
  - a. Align with the Proposed Filing – Coversheet and include specific economic impacts.
  - b. Clarify numbers are national from the Federal Registry.
  - c. Clarify costs/breakdown.
  - d. #6: Clarify any level of increased reporting requirements.
  - e. #3: Include the estimated costs and benefits anticipated.
3. Environmental Impact Analysis, #9: Complete.
4. Public Input Maximization Plan:
  - a. #3 and #4: Include who (#4) and how (#3) you are publicizing in Vermont, including outreach to all entities, such as Vermont employers, League of Cities and Towns, etc.
5. Incorporation by Reference:
  - a. #5: Include physical office address.
  - b. #6: Note the adoption of OSHA amendments, clarifying reference pertaining to OSHA vs VOSHA.
  - c. *FYI: Although it must be as stringent, modifications can be made to what's being incorporated.*

## 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. If no impacts are anticipated, please specify “No impact anticipated” in the field.

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.

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#### 1. TITLE OF RULE FILING:

**Improved Tracking of Workplace Injuries and Illnesses**

#### 2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

#### 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 will affect private and public sector employers of 100 or more employees, in certain, designated NAICS codes. OSHA estimates that this rule will have economic costs - nationally - across the complete spectrum of mandated reporters, of \$7.7 million per year. These costs include \$7.1 million per year to become familiar with the rule’s requirements,

update software, and submit forms electronically to OSHA, and \$0.6 million per year to the government for processing the data, updating and maintaining software, and providing additional IT support. OSHA estimates average cost increase for recordkeeping, of \$136 per year for affected establishments (those with 100 or more employees in NAICS industries listed on appendix B of subpart E of part 1904), annualized over 10 years with a discount rate of seven percent.

4. **IMPACT ON SCHOOLS:**

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

Schools will not be affected in by this rule as they do not fall into the designation of NAICS codes that compel reporting of this data.

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.**

As this rule is identical to the adopted rule from Federal OSHA, and VOSHA must remain equally effective, no alternative was 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):*

Businesses and public sector entities, of less than 100 employees will not be affected by this rule

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.**

Businesses with less than 100 employees would not be affected by this rule.

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 other alternatives were considered

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This rulemaking was thoroughly analyzed and documented through the process of federal rulemaking. A complete description of these analyses' can be found in Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations

## 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. If no impacts are anticipated, please specify “No impact anticipated” in the field.

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

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#### 1. TITLE OF RULE FILING:

**Improved Tracking of Workplace Injuries and Illnesses**

#### 2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

#### 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.):*

This rule has no effect on greenhouse gas.

#### 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.):*

This rule has no effect on water

#### 5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

This rule has no effect on land

#### 6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

This rule has no effect on recreation

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

This rule has no effect on climate

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

This rule is strictly administrative and complying with it will be accomplished through electronic means. Therefore there is no effect on the environment.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This rule was analyzed at the federal level and was documented in the Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations