



SHEET METAL & AIR CONDITIONING
CONTRACTORS' NATIONAL ASSOCIATION

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June 24, 2022

The Honorable Douglas L. Parker
Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
Occupational Safety & Health Administration
200 Constitution Avenue, NW
Room Number N3626
Washington, D.C. 20210

Subject: Proposed Rule to Improve Tracking of Workplace Injuries and Illnesses; Docket No. OSHA-2021-0006

Dear Assistant Secretary Parker:

The Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) is supported by approximately 3,500 construction firms engaged in industrial, commercial, residential, architectural and specialty sheet metal and air conditioning construction throughout the U.S. While many of our members are of significant size and provide a wide scope of expert construction services on major projects, many of these contractors operate family-owned businesses with a highly skilled workforce.

SMACNA, as a leader in the highest skill segment of the construction industry, shares the goals the Department's proposed rule to obtain a safe worksite. Therefore, SMACNA offers the following comments to the selected OSHA questions below to assist with the proposed amendments to 1904.41 Electronic Submission of Employer Identification Number (EIN) and Injury and Illness Records to OSHA.

OSHA Question 2. Is 100 or more employees the appropriate size criterion for the proposed requirement to electronically submit data from the OSHA Form 300, 301, and 300A? Would a different size criterion be more appropriate?

It would benefit SMACNA members to better understand the methodology used by OSHA to determine the 100 or more employees as a requirement. For example, the Small Business Administration (SBA) uses a size standards methodology as a basis to determine employee size requirements. If OSHA could provide further clarification on the methodology used, it would provide SMACNA the details needed to better understand the requirement and explain it to our membership.



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OSHA Question 15. What are some ways that employers could use the collected data to improve the safety and health of their workplaces?

SMACNA members believe that any additional data that is collected should be used in tandem with Bureau of Labor Statistics (BLS) data so our industry can better understand loss trends and use the information accordingly.

SMACNA members provide a unique service and would like the data to be broken down by the specific North American Industry Classification System (NACIS) codes. Such as detailed OSHA incident rate information for NACIS code 238220 - Plumbing, Heating, and Air-Conditioning Contractors.

OSHA Question 17. What are some ways that federal and state agencies could use the collected data to improve workplace safety and health?

SMACNA members believe that the best use of any collected data would be to aid in the generation of more education and awareness initiatives.

OSHA Question 21. Are there potential negative consequences to the collection of this data that OSHA has not considered here?

SMACNA members are concerned about being required to use OSHA provided software on their systems. This will require them to need additional resources to familiarize themselves with the software and create potential cyber liability claims for their company. This includes cyber liability claims resulting from alleging breaches of privacy rights, infringement or misappropriation of intellectual property, employment discrimination, violations of obscenity laws, the spreading of computer viruses, and defamation.

SMACNA urges OSHA to consider our comments when finalizing these proposed recordkeeping requirements.

Sincerely,

Aaron Hilger
Chief Executive Officer