September 28, 2018

The Honorable Loren Sweatt
Acting Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210


Dear Ms. Sweatt:

The Independent Electrical Contractors (IEC) is an association of over 50 affiliates and training centers, representing over 2,300 electrical and systems contractors nationwide. Based in Alexandria, Virginia, IEC’s purpose is to establish a competitive environment for the merit shop – a philosophy that promotes free enterprise, open competition and economic opportunity for all.

On behalf of its members, IEC submits the following comments on OSHA’s Proposed Rule, Tracking of Workplace Injuries and Illnesses (83 Fed. Reg. 36494, July 30, 2018).

300 Log and 301 Forms

IEC believes that Forms 300 and 301 contain sensitive and private employee information with little to no enforcement benefits and therefore, should not be required by electrical contractors to be submitted to OSHA.

An electrical contractor’s OSHA 300 Log contains names, job titles, descriptions of injuries and body parts affected. It also includes the extent of the injury suffered by the employee and whether the injury resulted in lost work days or restricted duty. Additionally, the 301 Form contains some of the same information, to include personal identifiers, such as an employee’s home address, date of birth, and physician information. Form 301 contains even more detailed information about the injury, such as whether it resulted in hospitalization, how the incident occurred and what body parts are affected. Most employees would consider this to be private and personal medical information that shouldn’t be disclosed to the public. Should these be collected, there’s no guarantee that the information in these forms would not be subjected to a Freedom of Information Act (FOIA) request.
In addition, under the current rule, the gap between the date of the work-related injury or illness and electronic submission of the 300 Logs and 301 Forms makes the information dated by the time OSHA would receive it. And of even greater concern is the fact that the information contained in these forms is not necessarily indicative of potential hazards in a workplace, or of potential violations of OSHA standards and regulations. Often, these reports contact incidents that fall completely outside of an electrical contractor’s control. Consequently, use of this data to establish enforcement measures would be ill-advised and should not be used to trigger enforcement.

Form 300A

IEC urges OSHA to reconsider the requirement of electrical contractors submitting OSHA 300A Forms. Much like 300 Logs and 301 Forms, 300A Forms contain sensitive information about an electrical contractor’s operation. This could include number of hours worked or any data related to an electrical contractor’s income, profits and losses. Ultimately, much of the information contained in the OSHA 300A is of a sensitive and commercial nature of which there’s no guarantee that it would not be the subject to a FOIA request.

Employer Identification Number

IEC member companies view the Employer Identification Number (EIN) assigned to them by the Internal Revenue Service (IRS) to be comparable to that of an individual’s social security number. This sensitive information is used for various business activities, such as opening a bank account or filing taxes. Consequently, IEC sees no legitimate reason for electrical contractors to be required to include this on any reports they are mandated to submit and would urge OSHA to reconsider this requirement.

Anti-Retaliation Provision

IEC is disappointed that OSHA is only seeking public comments on the revisions to the electronic submission of the 300 Logs and 301 Forms. On behalf of its members, we urge OSHA to revise this proposed rulemaking to address concerns surrounding an employer’s post-accident drug testing and safety incentive programs.