

# House passes resolution to block OSHA's 'ongoing obligation' recordkeeping rule

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March 2, 2017

10 Comments



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Washington – Lawmakers have moved one step closer to overturning a final rule<sup>[1]</sup> from OSHA that addresses employers' "ongoing obligation" to make and maintain accurate records of work-related injury and illness data.

On March 1, the House of Representatives passed a resolution of disapproval<sup>[2]</sup> to block a final rule that OSHA issued in the final days of the Obama administration. The resolution, which was

introduced Feb. 21 by Rep. Bradley Byrne (R-AL), would prevent the so-called “Volks” rule from going into effect and prevent future administrations from promulgating a similar rule. The House passed the resolution by a vote of 231-191.

Byrne is the chairman of the Subcommittee on Workforce Protections. He said the “Volks” rule, which is named after a legal case involving Volks Constructors, created unnecessary burdens for employers without doing anything to protect workers.

Employers long have been required to record and maintain work-related injury and illness data over a five-year span. However, employers could be cited for violations only within a six-month time period. The guidelines changed Dec. 19 when OSHA published<sup>[3]</sup> the “Volks” rule, which increased the possible penalty threshold for up to five years instead of six months.

“OSHA’s power grab is not only unlawful, it does nothing to improve workplace safety,” Byrne said in a press release. “As Republicans have been saying for years, OSHA should collaborate with employers to prevent injuries and illnesses in workplaces and address any gaps in safety that might exist. I am pleased the House has acted to block this unlawful rule, and look forward to continuing our efforts to support proactive safety policies that help keep America’s workers safe.”

Jordan Barab, former deputy assistant secretary for OSHA, posted a sarcastic tweet<sup>[4]</sup> in response to the resolution: “House votes to make it impossible for OSHA to enforce accurate injury & illness recordkeeping. Way to support the American worker!”

At press time, the Senate had not yet voted on the resolution.

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More paperwork and recordkeeping does not necessarily protect the American worker. I maintain records going back many years. Should I be held responsible for a mistake that may have been made by a person that has not worked here in years? How would a scrutiny of old supervisors/managers and former/retired employees that may have not followed the exact letter or interpretation of the law benefit the company now? Also, does OSHA really have time to audit company records to that extent? We know that OSHA rules do not cover every topic or subject in detail. If there is evidence that an employer has not been following the law or the intent of the law for several months or years, then there is the general duty clause. Most employers care about their employees and do their best. OSHA should be there to help when possible and not hinder employers with more requirements that do not promote employee health or safety.

I am reminded of the Joseph McCarthy era in the 1950's in which our Federal Government sat by and let him do his witch hunting against some innocent people who allegedly embraced communism. There is definitely some similarities here in the OSHA Recordkeeping Rule and as it affects the power of government and heavy hand on businesses.

Changing the lens with fresh perspective or direction may be difficult for OSHA and employers. My personal experience with Risk Management practices in the construction industry lead me to believe that where employment is "Transactional" or "Task /Contract Driven" our focus to adequately train, supervise and modify behaviors for worker safety will be more productive than penalty for records errors. I agree that severe Penalty is sometimes necessary for egregious behavior by employers, however excessive use of the power to penalize takes us from the Campfire to the Boxing Ring where the sting of dealing with OSHA's power results in pushing paper records which may or may not reflect reality. Let's focus on the real killers, like failure to properly train, supervise and enforce fall protection use on jobsites and turn our efforts into a positive result. Thank you for all you do to educate industry in Best Practices for workers.

I am curious to how many of these individuals that set these policy or procedures have ever actually implemented them or have actually had to apply them in real work practices. This latest record keeping rule is definitely an indicator of lets throw it against the wall and see what sticks. Issues like this are also a clear sign that our OSHA representatives in Washington are out of touch with the field operations and how it effects businesses and how it presenting false indicators, by lumping companies into the wrong categories, which is unfair and in accurate.

The proposed rule has nothing to with protecting American workers. In the world of the American worker , it is viewed as a revenue generating rule for OSHA. Turnover rate in most business makes it impossible to fine the management team that created the issue. OSHA should focus their attention on how companies prevent incidents that occur routinely. That would be helpful.

Having once worked inside the "establishment," I can tell you that few of these administrators have ever worked in a position where they were responsible for maintaining the records. They have no idea what the 'real world' is like and the challenges with ensuring accuracy in records. All they know how to do is look for the smallest of problems or inaccuracies and issue citations. As for Jordan Barab, American businesses and workers are better off without him in OSHA's management structure. His only goal was to crush business.

If you oppose a longer statute of limitations on workplace safety violations, maybe just have a safer workplace. Don't do the crime if you can't do the time.

Knowing what the longer term safety record is helps a business decide on safety priorities. Hiding a safety poor record is not good for workers or the tax payers. There is an element of shaming some business's into a more proactive safety approach that in turn workers will benefit from. Transparency is a good thing in safety.

so will this stop any of the other provisions in the electronic recordkeeping rule? e.g., having to upload the 300 A... does this wipe it all away? thanks

Funny how OSHA is upset by a legislative act because it will result in less income for them, not truly for the safety of the American worker. Is there anybody left in the USA that thinks they truly care? They're all about the punitive acts that allow them to make money...period! I remember having a proactive private safety consultant come in to our workplace to do a seminar and help us to recognize some of the new OSHA rules coming in to play that year. The guy left on a Friday & Monday morning (without any notice) an OSHA inspector showed up to issue the fines before we could address some of the remaining issues from what we'd just learned. They were obviously working together, and the bottom line was that unless the inspector showed up quickly, he'd have nothing to fine us over because 100% compliance is bad for their business. And it IS a business to them.

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### Links

1. <https://www.congress.gov/bill/115th-congress/house-joint-resolution/83/text>
2. [https://edworkforce.house.gov/uploadedfiles/hj\\_res\\_83.pdf](https://edworkforce.house.gov/uploadedfiles/hj_res_83.pdf)
3. <https://www.federalregister.gov/documents/2016/12/19/2016-30410/clarification-of-employers-continuing-obligation-to-make-and-maintain-an-accurate-record-of-each>
4. [https://twitter.com/jbarab?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://twitter.com/jbarab?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor)

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